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HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

1998 Regular Session

Volume III

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 1998,
and in the Two Hundred and Sixth
Year of the Commonwealth

Begun on Tuesday, the Sixth Day of January, 1998, and Adjourned
Sine Die on Wednesday, April 15, 1998

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each house of the General Assembly to keep a journal as a public accounting of daily legislative activity. It is the official record of action by the General Assembly.

The *Kentucky Revised Statutes* require the Legislative Research Commission to compare, edit, correct, and publish the journals of each chamber. This is the *House Journal* for the Regular Session of 1998.

The texts of simple and concurrent resolutions appear on first reading or adoption. Appendices contain a list of elected representatives, tables of actions on bills and resolutions, roll call votes, the budget memorandum, and a subject index.

Ms. Linda Attkisson and Ms. Gene Wallace prepared the *House Journal* for the 1998 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

DON CETRULO
Director

The Capitol
Frankfort, Kentucky
1999

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TUESDAY, MARCH 3, 1998

THIRTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. Ross Bauscher, Macedonia Baptist Church, Owensboro

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Lovell.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 2, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 88, SB 146, SB 214, SB 233, SB 250,** and **HJR 58**. Message received on **HB 4**: The Senate has passed **HB 4** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 212**: The Senate has passed **HB 212** with Senate Committee Amendment No. 1 attached and respectfully requests concurrence of this Honorable Body. Message received on **HJR 53**: The Senate has passed **HJR 53** with Senate Committee Amendment No. 1 and Senate Committee Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Representative Murgatroyd moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Murgatroyd moved the adoption of the following **Legislative Citation No. 124**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby welcomes the Northern Kentucky Eagle Scouts upon their visit to the House Chambers in order to learn more about the history and legislative process of the Commonwealth of Kentucky. The members of this honorable body are delighted to join Representative Richard Murgatroyd in welcoming these outstanding Eagle Scouts to the Capitol and in commending them for their interest in this worthwhile endeavor. **Legislative Citation No. 124** was adopted without objection.

Introduction of Bills and Resolutions

HB 808, by Representatives Johns, Jenkins, Stein, Nunn, L. Clark, Miller, D. Butler, and Horlander: AN ACT relating to hazardous duty retirement.

HB 809, by Representative P. Clark: AN ACT relating to railroads.

HB 810, by Representative P. Clark: AN ACT relating to public officials.

HB 811, by Representative Clarke: AN ACT relating to financial administration.

HB 812, by Representative Bratcher: AN ACT relating to persons under a disability.

HB 813, by Representative Johns: AN ACT relating to retirement.

HB 814, by Representative Yonts: AN ACT relating to education.

HB 815, by Representative Richards: AN ACT relating to the State Advisory Council for Gifted and Talented Education.

HB 816, by Representative Anderson: AN ACT relating to prompt payment of contractors on public works.

HB 817, by Representative Bowling: AN ACT relating to eminent domain.

HB 818, by Representative Bowling: AN ACT relating to judicial retirement.

HB 819, by Representative Bowling: AN ACT relating to eminent domain.

HB 820, by Representative Cave: AN ACT relating to license plates.

HR 111, by Representatives Worthington, Riggs, Walton, Horlander, P. Clark, Wayne, Callahan, D. Butler, Simpson, DeWeese, Riner, Reinhardt, Stein, Stine, Crenshaw, Brandstetter, Marcotte, Kerr, Heleringer, Palumbo, Maricle, Murgatroyd, Gooch, R. Adams, Anderson, G. Graham, Burch, Jenkins, Jordan, Damron, Miller, L. Clark, Marzian, Johns, Crimm, and Hatcher: A RESOLUTION encouraging the Kentucky Congressional delegation to address inequities in mass transit funding.

HCR 112, by Representative Wayne: A CONCURRENT RESOLUTION relating to "Good Samaritan" laws.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 774, HB 776, HB 802**

Appropriations and Revenue: **SB 278**

Banking and Insurance: **HB 786**

Cities: **HB 775, HB 783, SB 269**

Counties and Special Districts: **HB 807, HB 793**

Economic Development: **HR 108**

Education: **HB 773, HB 778, HB 779, HB 782, HB 788, HB 798, HB 800, HB 805**

Health and Welfare: **HB 785, HCR 103, HJR 106**

Judiciary: **HB 781, HB 787, HB 791, HB 794, HB 796, HB 803**

Labor and Industry: **HB 804, SB 296**

Licensing and Occupations: **HB 771**

State Government: **HB 770, HB 777, HB 780, HB 784, HB 789, HB 795, HB 797, HB 799, HB 801, SB 252**

Tourism Development and Energy: **HB 772, HB 792, HJR 110, SCR 88**

Transportation: **HB 790, HB 806, HJR 109, SB 211**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 105**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 552, HB 725, HB 693, HB 753, HB 754, HB 689, HB 690, HB 584, HB 705**

Report of Committees

The Committee on Economic Development reported **HB 206**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 206, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The purposes of Sections 1 to 16 of this Act are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small businesses in Kentucky, to provide additional jobs, and to encourage the development of new products and technologies in the state through capital investments. It is the intent of Sections 1 to 16 of this Act to give investment preference to Kentucky small businesses showing a potential for rapid growth. Insofar as possible, any investment made in a Kentucky small business under the provisions of Sections 1 to 16 of this Act shall be used by that business to leverage additional capital investments from other sources.

SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 16 of this Act, unless the context clearly requires otherwise:

(1) "Administrative expenses and fees" means expenses and fees incurred by the investment fund in connection with the management and administration of qualified investments;

(2) "Agreement" means an investment fund agreement entered into pursuant to subsection (2) of Section 3 of this Act by the authority and an investment fund manager on behalf of the investment fund, the investment fund manager, and any investor in the investment fund;

(3) "Applicant" means any person or entity who has not received certification from the authority as an investment fund manager, but who has or will submit an application to the authority for certification as an investment fund manager;

(4) "Authority" means the Kentucky Economic Development Finance Authority;

(5) "Cash contribution" means an investment of money by an investor in an investment fund under the terms of Sections 1 to 16 of this Act;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Credit" means a credit against state tax liability awarded by the authority pursuant to Section 6 of this Act for cash contributions to investment funds;

(8) "Entity" means any corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

(9) "Financial institution" means any banking corporation or association, trust company, savings and loan association, savings bank, credit union, or other entity principally engaged in the business of lending money or receiving or soliciting money on deposit;

(10) "Investment fund" means any entity that is organized by an investment fund manager in compliance with applicable state and federal securities laws and regulations, and is certified by the authority to be capitalized with cash contributions pursuant to Sections 1 to 16 of this Act;

(11) "Investment fund manager" means any person or entity that is authorized to act in such capacity by any applicable securities regulator and that has been certified by the authority to manage one (1) or more investment funds authorized under the provisions of Sections 1 to 16 of this Act;

(12) "Investor" means any person or entity, other than a financial institution, that is subject to state tax liability and that makes a cash contribution to an investment fund in accordance with the provisions of Sections 1 to 16 of this Act;

(13) "Qualified activity" means any industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, agricultural enterprise or agribusiness activity. A "qualified activity" does not include any activity principally engaged in by financial institutions, commercial development companies, credit companies, financial or investment advisors, brokerage or financial firms, other investment funds or investment fund managers, charitable and religious institutions, oil and gas exploration, insurance companies, residential housing developers, or any other activity that the authority determines in its discretion to be against the public interest, against the purposes of Sections 1 to 16 of this Act, or in violation of any law;

(14) "Qualified investment" means a contribution of money to a small business by an investment fund, in compliance with applicable state and federal securities laws and regulations, seeking a financial return based upon that contribution and in consideration for which the investment fund acquires or receives any of the following:

(a) 1. An equity interest in the small business, such as a general or limited partnership interest, common or preferred stock with or without voting rights and without regard to seniority position, forms of subordinate or convertible unsecured debt, or both, with warrants, rights, or other means of equity conversion attached; or

2. An unsecured debt instrument the maturity date of which is longer than one (1) year and which is made or issued by the small business; or

(b) Any other debt instrument issued or made by the small business.

Excluding any investment of money that has not been certified by the authority as a cash contribution under Sections 1 to 16 of this Act, fifty percent (50%) or more of any investment fund shall be held in interests or debt instruments as specified in paragraph (a) of this subsection;

(15) "Small business" means any entity which at the time a qualified investment is made by an investment fund:

(a) Has net worth of three million dollars ($3,000,000) or less and net income after federal income taxes for each

of the two (2) preceding fiscal years of two million dollars ($2,000,000) or less;

(b) Is actively and principally engaged in a qualified activity within the Commonwealth, or will be actively and principally engaged in a qualified activity within the Commonwealth after the making of a qualified investment by an investment fund;

(c) Has no more than one hundred (100) employees; and

(d) Has more than fifty percent (50%) of its assets, operations, and employees located in Kentucky.

The criteria set forth in paragraphs (a) and (c) of this subsection do not apply to any second or subsequent qualified investments; and

(16) "State tax liability" means a taxpayer's state tax liability that is incurred by the investor as prescribed in Section 8 of this Act.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority may commence certification of investment funds, cash contributions, and investment fund managers on or after July 1, 1999. No credit authorized by Section 6 of this Act shall become effective until the investment fund in which the cash contribution is made and from which the credit accrues, has been implemented in compliance with applicable state and federal securities laws and regulations. Any investor whose cash contribution to an investment fund has been certified by the authority shall be entitled to a credit equal to forty percent (40%) of that cash contribution under the provisions of Section 6 of this Act. Except as otherwise provided in subsection (6) of Section 5 of this Act, any investment of money made to an investment fund shall not be considered a part of the investment fund for purposes of Sections 1 to 16 of this Act and accordingly shall not be subject to the requirements of Sections 1 to 16 of this Act unless the investment of money has been certified by the authority as a cash contribution under Sections 1 to 16 of this Act. A person or entity seeking to be certified as an investment fund manager for the operation of one (1) or more investment funds shall make written application to the authority pursuant to Section 4 of this Act, in addition to complying with applicable state and federal securities laws and regulations.

(2) (a) Concurrent with certification of the investment fund and the investment fund manager, the authority and the investment fund manager, on behalf of itself and any investors in the investment fund, shall enter into an agreement with respect to the investment fund. The terms and provisions of each agreement shall be determined by negotiations between the authority and the investment fund manager. If an investment fund manager or any investor in an investment fund fails to comply with their respective obligations under the agreement, the authority may, at its option do any one (1) or more of the following:

1. Suspend the availability of the credits;

2. Pursue any remedy provided under the agreement, including termination of the agreement; or

3. Pursue any other remedy at law to which it may be entitled.

(b) All remedies provided in this subsection are cumulative.

(3) At least one million dollars ($1,000,000) in cash contributions approved for credits shall be transferred into the investment fund within ninety (90) days from the effective date of the agreement between the authority and the investment fund manager . The effective date of the agreement shall be the date of certification of the investment fund and the investment fund manager by the authority. All cash contributions in excess of one million dollars ($1,000,000) that have been approved for credits as provided in Sections 1 to 16 of this Act in connection with the initial certification of the investment fund shall be transferred into the investment fund within one (1) year of the effective date of the agreement.

(4) An investment fund shall invest cash contributions in qualified investments according to the following schedule:

(a) On average during the second year after the effective date of the agreement, at least twenty-five percent (25%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;

(b) On average during the third year after the effective date of the agreement, at least fifty percent (50%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;

(c) On average during the fourth year after the effective date of the agreement, at least seventy-five percent (75%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;

(d) On average during the fifth year after the effective date of the agreement, at least ninety percent (90%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall

be invested in small businesses;

(e) On average during the sixth year after the effective date of the agreement, at least seventy-five percent (75%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall remain invested in small businesses;

(f) On average during the seventh year after the effective date of the agreement, at least fifty percent (50%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall remain invested in small businesses ; and

(g) On average during the eighth year after the effective date of the agreement, at least twenty-five percent (25%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall remain invested in small businesses.

For purposes of determining the percentage invested in small businesses on average during any particular year pursuant to this section, the amount invested in small businesses shall be the average amount so invested at the end of each calendar month during the year, and the amount of the investment fund required to be invested shall be the aggregate amount of cash contributions certified by the authority.

(5) Upon the written request of an investment fund manager, asserting among other things that the investment fund and the investment fund manager are in compliance with applicable state and federal securities laws and regulations and will remain so for the life of the investment fund, the authority in its discretion may allow an investment fund to maintain lower investment percentages than those set forth in paragraphs (a) to (g) of subsection (4) of this section.

(6) No credits shall be awarded by the authority for cash contributions to investment funds after December 31, 2004. No investment funds or investment fund managers shall be certified by the authority after December 31, 2003.

SECTION 4. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The certification of investment funds and investment fund managers shall be made pursuant to an application to the authority, upon compliance with any applicable state and federal securities laws and regulations or a statement by the investment fund and the investment fund manager that such compliance will be obtained either simultaneously with or prior to submission of such application to the authority. In the application, the applicant shall disclose to the authority the following information, all of which shall be considered by the authority in certifying investment funds and investment fund managers:

(a) The applicant's business plan, including the maximum amount of cash contributions to be solicited for the investment fund, and strategy for operation of the proposed investment fund;

(b) The total amount of commitments for cash contributions the applicant has received from potential investors, including receipt of not less than one million dollars ($1,000,000) in cash contributions deposited in an escrow account established in accordance with subsection (6) of Section 5 of this Act;

(c) The name, address, and tax identification or Social Security number of each potential investor and the amount of cash contributions each potential investor has committed to the proposed investment fund;

(d) The relevant experience of the applicant or the applicant's management, and their demonstrated ability to manage the proposed investment fund;

(e) A process for disclosing to investors the credits available to investors pursuant to Sections 1 to 16 of this Act, which shall include, but not be limited to, the disclosures described in subsection (7) of Section 5 of this Act;

(f) The location and account number of an escrow account that has been established for investors for the period of time between receipt of cash contributions by the applicant and the certification of the investment fund and the investment fund manager by the authority;

(g) The disclosure documents to be used in connection with the offering and investment in the investment fund;

(h) The exemption or registration provision that is being relied upon or intended to be relied upon by both the investment fund and the investment fund manager to permit this offering of securities and the activity of the investment fund manager in relation to such offering, in compliance with applicable state and federal securities laws and regulations; and

(i) Any additional information the authority deems necessary or appropriate. An investment fund manager seeking to have certified additional cash contributions to a certified investment fund shall submit to the authority a written amendment to the application in a form acceptable to the authority.

(2) The contents of applications submitted to the authority by applicants shall be treated as confidential by the Commonwealth and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.

(3) The authority shall have, in addition to its other powers provided in this chapter and as otherwise provided by law,

all powers and authority, not explicitly prohibited by statute, that are necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of Sections 1 to 16 of this Act, including, but not limited to, power to:

(a) Require consultation, advisory, and legal fees and other expenses the authority deems necessary or incident to the preparation, adoption, implementation, modification, or enforcement of the terms of any agreement or other document, or otherwise necessary or incident to any transaction;

(b) Require the investment fund manager to pay these fees and expenses directly to the person providing such consultation, advisory, legal, or other services on behalf of the authority; and

(c) Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges.

Any payments made by an investment fund manager pursuant to this subsection may be passed on to such investment fund manager's investment fund.

(4) An investment fund's stated purpose shall be to encourage and assist in the creation, development, or expansion of small businesses located in Kentucky.

(5) The criteria considered by the authority for the certification of investment fund managers shall include, but not be limited to, compliance by those persons with applicable state and federal securities laws and regulations, a review of the applicant and its business plan, the investment strategy for the investment fund, the relevant experience of the applicant or the applicant's management, and the applicant's demonstrated ability to manage the investment fund, and the receipt by the applicant of aggregate cash contributions from investors to the investment fund of not less than one million dollars ($1,000,000).

(6) Following certification of an investment fund and an investment fund manager and execution of the agreement by the authority and the investment fund manager, the authority shall provide each investor whose cash contribution has been certified by the authority with a certificate setting forth the amount of the credits the investor shall be entitled to receive under Section 6 of this Act. Following certification of any additional cash contributions to an investment fund after the initial certification of the investment fund, the authority shall provide each investor making an additional cash contribution with a certificate setting forth the amount of additional credits the investor shall be entitled to receive under Section 6 of this Act. Each investor shall file a copy of the certificate with the investor's state tax return in accordance with Section 9 of this Act.

(7) The authority may establish additional procedures and standards as it deems necessary for the certification of investment funds and investment fund managers by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

SECTION 5. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) An investment fund manager shall have a business office located within the Commonwealth. That office shall have a listed telephone number and shall be open to the public during normal business hours.

(2) The initial capitalization of an investment fund with cash contributions from investors shall not be less than one million dollars ($1,000,000). Any investment of moneys received by the investment fund in excess of the maximum amount of cash contributions proposed to be solicited in the application shall not be eligible for credits. In no event shall any investment of money received by the investment fund in excess of ten million dollars ($10,000,000) be eligible for credits. Cash contributions for all investment funds shall be raised after the effective date of this Act.

(3) Total qualified investments made by an investment fund, including initial and subsequent investments made by an investment fund, in any single small business using certified cash contributions shall not exceed twenty-five percent (25%) of the cash contributions in the investment fund; provided that this restriction shall not apply to investments of money that have not been certified as cash contributions under Sections 1 to 16 of this Act.

(4) An investment fund manager may operate separate investment funds pursuant to separate applications submitted to and approved by the authority, and assuming this activity is in compliance with any applicable state and federal securities laws and regulations as evidenced by a written statement to the authority by an investment fund manager to that effect.

(5) Following the initial certification of an investment fund, any additional cash contributions to that investment fund shall be certified by the authority.

(6) An investment fund manager seeking to establish an investment fund, or to increase the amount of cash contributions to an existing investment fund, shall establish an escrow account with a financial institution located within the Commonwealth into which cash contributions shall be deposited and held for the period of time between their receipt by the investment fund manager and either certification by the authority of the investment fund, or the certification by the authority of the increased cash contributions, whichever is later. No qualified investments shall

be made using cash contributions until the new or expanded investment fund is certified by the authority. If the authority denies certification of the new or expanded investment fund, all cash contributions received by the applicant relating to the new or expanded investment fund shall be returned to investors within ten (10) calendar days.

(7) An applicant soliciting cash contributions for the initial capitalization of an investment fund, or an investment fund manager soliciting additional cash contributions for an expanded investment fund, shall disclose in advance in writing to each investor, in addition to any other items required by law, that:

(a) No credit will be available under the provisions of Sections 1 to 16 of this Act until the investment fund and the investment fund manager have complied with applicable state and federal securities laws and regulations, have been certified by the authority, and an agreement between the authority and the investment fund manager on its behalf and on behalf of the investors has been executed, and the terms of that agreement have been disclosed in writing to each investor;

(b) No credit will be available under the provisions of Sections 1 to 16 of this Act until the investor's cash contribution to the investment fund has been certified by the authority; and

(c) The Commonwealth shall be immune from liability for any losses or damages investors may incur in connection with any cash contributions made to an investment fund or any qualified investments made by an investment fund in small businesses.

SECTION 6. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) An investor may receive a credit, beginning in any tax year after December 31, 1998, for that investor in which a cash contribution to a certified investment fund is made, against any state tax liability which may be imposed on the investor. The total amount of credits that an investor may receive under Sections 1 to 16 of this Act is equal to forty percent (40%) of the cash contribution made by that investor to an investment fund.

(2) The amount of credits that an investor may claim under Sections 1 to 16 of this Act for any tax year shall not exceed twenty-five percent (25%) of the total amount of credits allocated to the investor as determined under subsection (1) of this section, and it shall not exceed the investor's state tax liability, reduced by other credits to which the investor is entitled, in the order of priority set forth in Section 21 of this Act, for that tax year.

(3) If the amount of credits determined pursuant to subsection (1) of this section for any tax year exceeds the investor's state tax liability for that tax year, the investor may carry the excess credit forward to the immediately succeeding tax year or years, but the credit carry-forward may not be used for any tax year that begins on or after the fifteen (15) year anniversary date of the date of certification of the cash contribution of the investor. The amount of the credits carried forward from a tax year shall be reduced to the extent that the carry-forward amount is used by the investor to obtain a credit under Sections 1 to 16 of this Act for any subsequent tax year.

(4) The credit allowed under this section may not be used against any state tax liability the investor has for interest, penalties, or additions to tax. The credit allowed under this section may not be carried back by the investor to prior taxable years, and may not be transferred to any other taxpayer.

SECTION 7. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The total amount of credits made available by the authority for any single investment fund shall not exceed, in the aggregate, four million dollars ($4,000,000) for all investors and all taxable years. If aggregate cash contributions to a single investment fund exceed ten million dollars ($10,000,000) for all investors for all taxable years, the authority shall allocate credits to investors in the order that cash contributions are made by investors to the investment fund.

(2) The total credits authorized by the authority for all investors in all investment funds shall not exceed:

(a) Five million dollars ($5,000,000), in the aggregate, during the period from July 1, 1999, through June 30, 2000;

(b) Ten million dollars ($10,000,000), in the aggregate, during the period from July 1, 2000, through June 30, 2001, including credits authorized by the authority in the prior year;

(c) Fifteen million dollars ($15,000,000), in the aggregate, during the period from July 1, 2001, through June 30, 2002, including credits authorized by the authority in prior years; and

(d) Twenty million dollars ($20,000,000), in the aggregate, from July 1, 2002, and thereafter, including credits authorized by the authority in prior years.

The authority shall approve the credits to investors in the order that investment funds and investment fund managers are certified by the authority.

SECTION 8. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS

FOLLOWS:

A credit to which an investor is entitled under the provisions of Sections 1 to 16, Section 17 and Section 22 of this Act shall be applied against the following state tax liability owed by the investor:

(1) The investor's income tax liability for the tax year under KRS Chapter 141;

(2) The investor's corporation license tax for the tax year under KRS 136.070;

(3) The investor's domestic life insurance company property tax for the tax year under KRS 136.320; and

(4) The investor's foreign life insurance company premium receipt tax for the tax year under KRS 136.330.

SECTION 9. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) To receive the credit provided by Section 6 of this Act, an investor must:

(a) Claim the credit on the investor's annual state tax returns in the manner prescribed by the Revenue Cabinet;

(b) File with the Revenue Cabinet and with the investor's annual state tax returns a copy of the disclosure form submitted by the investment fund manager under subsection (2) of this section; and

(c) File with the Revenue Cabinet and with the investor's annual state tax returns a copy of the certification of the investor's credit, which is issued by the authority under subsection (6) of Section 4 of this Act at the time of certification of the investment fund and of the investment fund manager and at the time of certification of additional cash contributions, as applicable.

(2) Each investment fund manager shall complete disclosure forms promulgated by the Revenue Cabinet as administrative regulations under KRS Chapter 13A, detailing the following information with respect to each cash contribution:

(a) The name, address, and Social Security number or employer identification number, as applicable, of the investment fund manager and the investment fund;

(b) The name, address, and Social Security number or employer identification number, as applicable, of each investor; and

(c) The total amount of all cash contributions made by each investor.

(3) The disclosure forms required under subsection (2) of this section shall be filed by the investment fund manager with the Revenue Cabinet and the authority within thirty (30) days after receipt of certification from the authority. Copies of these forms shall be mailed to each investor by the investment fund manager on or before that same date.

(4) The contents of an investor's filings under subsection (1) of this section and the disclosure form required under subsection (2) of this section shall be treated by the authority and by the Revenue Cabinet as confidential and shall not be considered public records under the Kentucky Open Records Act, KRS 61.870 to 61.884.

SECTION 10. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Subject to subsection (4) of Section 3 of this Act, if a cash contribution which is the basis for a credit under the provisions of Sections 1 to 16 of this Act is redeemed by the investment fund, or if the investment fund allows the cash contribution to be withdrawn by the investor within five (5) years after the date of certification of the cash contributions by the authority, the credit provided by Section 6 of this Act for that cash contribution shall be disallowed, and the investor shall pay to the State Treasurer an amount equal to the amount of credits previously claimed with respect to those cash contributions, plus interest at the rate of two percent (2%) per month, compounded monthly from the date the cash contributions were certified by the authority. This payment shall be included with the investor's state tax return or returns for the period in which the redemption or withdrawal occurred. When payments are made to the State Treasurer under this section, the amount collected shall be handled in the same manner as if no credit had been allowed.

(2) An investment fund that fails to make or maintain investments in small businesses pursuant to Sections 1 to 16 of this Act, or that otherwise violates the provisions of Sections 1 to 16 of this Act, shall pay to the State Treasurer a penalty in an amount equal to the amount of all credits claimed by the investors making cash contributions to the investment fund, plus interest at the rate of two percent (2%) per month, compounded monthly, from the date the cash contributions were certified by the authority. If the investment fund fails to pay the penalty and interest in full as required by the Revenue Cabinet, each investor shall be personally liable to the Revenue Cabinet for that investor's pro rata share of the unpaid penalty and the investment fund manager shall be liable to the Revenue Cabinet for all such interest. Any payment of unpaid penalty by an investor shall be included with the investor's state tax return for the period in which the failure or violation occurred. An investor's pro rata share shall be determined by dividing the total amount of cash contributions made by the investor in the investment fund, by the total amount of cash contributions made by all investors in the investment fund. The secretary of the Revenue Cabinet shall give

notice in writing to the authority, the investment fund manager, and the investors of any penalties imposed. The secretary of the Revenue Cabinet may abate any imposed penalty upon written request, if the investment fund manager establishes reasonable cause for the failure to make qualified investments in small businesses under the provisions of Sections 1 to 16 of this Act, or to otherwise comply with the provisions of Sections 1 to 16 of this Act. The State Treasurer shall deposit any amounts received pursuant to this section in the Commonwealth's general fund.

(3) The administration of this section shall be the responsibility of the Revenue Cabinet.

SECTION 11. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Each investment fund manager shall file semiannual reports with the secretary of the Revenue Cabinet and with the authority, on or before the sixtieth day, and the two-hundred-fortieth day, of each fiscal year of the investment fund. These reports shall include information that the authority prescribes from time to time, including, but not limited to, the following:

- *(a) For each small business in which qualified investments are made by the investment fund during the reporting period, the name and address of the small business, the amount of qualified investments made by the investment fund in the small business during the reporting period, and the job creation anticipated and achieved by the small business during the reporting period;*
- *(b) An affidavit from each small business in which a qualified investment was made during the reporting period, prepared by any authorized officer, partner, trustee, member, or manager of the small business, which sets forth:*
    - *1. That the small business qualifies as a small business under Sections 1 to 16 of this Act; and*
    - *2. A brief description of the activities of the small business;*
- *(c) An affidavit prepared by the investment fund manager or, if the investment fund is an entity, by an authorized officer, partner, trustee, member, or manager of the investment fund manager pertaining to:*
    - *1. Each small business in which a qualified investment has been made, including, without limitation, qualified investments made prior to the reporting period, that sets forth:*
        - *a. That each small business is or continues to be, as applicable, actively and principally engaged in a qualified activity; and*
        - *b. That each small business qualifies as a small business under the provisions of Sections 1 to 16 of this Act;*
    - *2. The amount of each distribution to an investor and redemption of cash contributions made by the investment fund during the reporting period and in the aggregate since the date of certification of the investment fund;*
    - *3. The name and address of each investor, and the amount and date of the cash contribution to the investment fund of each investor who is entitled to the credit; and*
    - *4. The continued compliance by the investment fund and the investment fund manager with all applicable state and federal securities laws and regulations; and*
- *(d) A statement from the investment fund manager as to the securities exemption or registration provision relied upon by the small business with respect to the qualified investment by the investment fund in the small business.*

(2) On or before November 1 of each year, the authority shall make an annual report for the fiscal year ending the preceding June 30 to the Governor and the Legislative Research Commission, which shall include, but not be limited to, the following information:

- *(a) The total number of investors and the aggregate amount of cash contributions to all investment funds, categorized by the types of entities through which investors conduct business, amounts of cash contributions, and geographical distribution of investors, including area development districts; and*
- *(b) The total number and amounts of qualified investments made by each investment fund, categorized by type of businesses, amount of investment, job creation anticipated and achieved, and geographical distribution, including area development districts.*

(3) The contents of the semiannual reports from investment fund managers to the authority described in subsection (1) of this section shall be treated by the authority as confidential, and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.

(4) The authority may charge a fee in connection with the administration and processing of semiannual reports made by investment fund managers.

SECTION 12. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Each investment fund manager shall cause the books and records of the investment fund to be audited on an annual basis by an independent certified public accountant in accordance with generally-accepted accounting principles consistently applied. The audit shall address the financial condition of the investment fund and compliance with the provisions of Sections 1 to 16 and Section 17 of this Act, including, but not limited to, those provisions requiring that qualified investments be made within certain time limits. Each year the audit report shall be completed and certified by the independent certified public accountant and delivered to the secretary of the Revenue Cabinet and the authority within ninety (90) days after the end of the investment fund's fiscal year.

(2) The authority and the Revenue Cabinet, individually or collectively, may examine, under oath, any of the officers, trustees, partners, members, managers, directors, agents, employees, or investors of an investment fund or an investment fund manager, or if the investment fund manager is a person, an investment fund manager, regarding the affairs and business of the investment fund. The authority and the Revenue Cabinet, individually or collectively, may issue subpoenas and subpoenas duces tecum and administer oaths. Refusal to obey such a subpoena or subpoena duces tecum may be reported to the Franklin Circuit Court, which shall enforce the subpoena or subpoena duces tecum according to the rules of civil or criminal procedure, as applicable.

(3) In addition to the audits required by this section, the authority or the Revenue Cabinet may audit one (1) or more investment funds or investment fund managers in any year on a random basis or for cause. The authority or the Revenue Cabinet may also audit any small business in which an investment fund has made a qualified investment, or in which an investment fund proposes to make a qualified investment, on a random basis or for cause. Nothing in this section shall be construed to prohibit the Revenue Cabinet from conducting any audit relating to the administration or enforcement of the tax laws of the Commonwealth which the Revenue Cabinet determines to be appropriate.

(4) If any audit conducted pursuant to this section discloses that an investment fund or investment fund manager is not in compliance with the provisions of Sections 1 to 16 and Section 17 of this Act, the authority and the Revenue Cabinet may consult with one another with respect to this noncompliance and the Revenue Cabinet may exercise any of its powers to protect the Commonwealth's interest and to enforce the provisions of Sections 1 to 16 and Section 17 of this Act.

(5) The authority may give an investment fund manager written notice of any noncompliance with the provisions of Sections 1 to 16 of this Act and specify a period of time the investment fund manager shall have to cure any noncompliance. Failure to cure any such noncompliance within the period of time specified by the authority may result in further action by the authority pursuant to this section.

(6) The authority and the Revenue Cabinet may each charge a fee in connection with the administration and review of annual audits of investment funds under this section.

(7) Nothing in this section shall be construed to prohibit the Department of Financial Institutions, Division of Securities, or any other securities regulatory organization or body with jurisdiction over the activity of an investment fund or the investment fund manager from conducting any examination or investigation relating to the securities activities of the investment fund or investment fund manager. If any examination or investigation conducted pursuant to any securities laws or regulations discloses that an investment fund or investment fund manager is not in compliance with any provision of any applicable securities laws or regulations, the appropriate securities regulator may take whatever action it deems appropriate in accordance with such securities laws and regulations to respond to the noncompliance, notwithstanding any action the authority or the Revenue Cabinet may or may not take with respect to the noncompliance.

SECTION 13. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Commonwealth, the authority, or any officer, director, official, employee, or agent of the Commonwealth or the authority shall not be liable to any investor or to any investment fund or to any investment fund manager as a result of Sections 1 to 16 of this Act, or any of the activities authorized by Sections 1 to 16 of this Act. This limitation of liability includes, without limitation:

(1) Losses or damages investors incur in connection with any cash contributions made to an investment fund or any qualified investments made by an investment fund in small businesses; and

(2) Any claim, liability, obligation, loss, damage, assessment, judgment, cost, and expense of any kind or character relating to federal or state securities laws, rules, regulations, or orders.

SECTION 14. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) An investment fund may be dissolved or liquidated only after notice to and approval of that dissolution or liquidation

by the authority in compliance with any applicable state or federal securities laws or regulations. The authority may promulgate administrative regulations in accordance with KRS Chapter 13A to establish procedures for application for approval to dissolve or liquidate an investment fund.

(2) This section shall not prohibit an investment fund from making distributions to investors in compliance with any applicable state or federal securities laws or regulations, if the investment fund is in compliance with the terms of Sections 1 to 16 of this Act and if these distributions are not made in connection with the dissolution or liquidation of the investment fund or prohibited by subsection (4) of Section 3 of this Act or subsection (1) of Section 10 of this Act.

SECTION 15. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) No qualified investments shall be made in a small business that is the "alter ego" of the investment fund or the investment fund manager. For purposes of this subsection, a business is an "alter ego" of an investment fund or an investment fund manager if any of the following criteria are satisfied:

(a) The small business is owned in whole or in part by an investor, officer, director, partner, member, manager, trustee or employee of the investment fund or the investment fund manager;

(b) The small business employs on a full-time or part-time basis an investor, officer, director, partner, member, manager, trustee, or employee of the investment fund or the investment fund manager; or

(c) An investor, officer, director, partner, member, manager, trustee, or employee of the investment fund or the investment fund manager has a direct or indirect financial interest in the small business, other than by virtue of the qualified investment made by the investment fund to the small business.

(2) No investor, officer, director, partner, member, manager, trustee, or employee of an investment fund or investment fund manager shall occupy any management position in any small business in which that investment fund has made a qualified investment unless:

(a) The person is filling that management position at the direction of the investment fund manger in an effort to remedy problems arising from a lack of profitability of the small business, or from dishonesty of the persons otherwise managing the small business; or

(b) The authority approves the investor, officer, director, partner, member, manager, trustee, or employee of an investment fund or investment fund manager serving in the management position in the small business.

(3) No investor, officer, director, partner, member, manager, trustee, or employee of an investment fund or investment fund manager shall have a direct or indirect financial interest in any small business in which the investment fund has a qualified investment, except by virtue of the qualified investment made by the investment fund in the small business.

(4) No officer, member, or employee of the authority shall have a direct or indirect financial interest in any investment fund or investment fund manager.

SECTION 16. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 16 of this Act shall be known as the Kentucky Investment Fund Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;

(b) "Investor" has the same meaning as set forth in Section 2 of this Act;

(c) "Investment fund" has the same meaning as set forth in Section 2 of this Act;

(d) "Investment fund manager" has the same meaning as set forth in Section 2 of this Act; and

(e) "Tax credit" means the credits provided for in Section 6 of this Act.

(2) (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under subsection (6) of Section 4 of this Act against the income tax due computed as provided by KRS 141.020 or 141.040, respectively.

(b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of Section 6 of this Act.

(3) (a) In the case of an investor that is an S-corporation, partnership, limited partnership, limited liability company, or limited liability partnership, the amount of the tax credit certified by the authority under subsection (6) of Section 4 of this Act shall be apportioned among the shareholders, partners, or members

thereof, as applicable, at the same ratio as the shareholders', partners', or members' distributive shares of income are determined for the tax year during which the amount of the credit is certified by the authority.

(b) The amount of the tax credit apportioned to each shareholder, partner, or member that may be claimed in any tax year of the shareholder, partner, or member shall be determined in accordance with the provisions of Section 6 of this Act.

(4) (a) In the case of an investor that is a trust, the amount of the tax credit certified by the authority under subsection (6) of Section 4 of this Act shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of Section 6 of this Act.

(5) The Revenue Cabinet shall promulgate administrative regulations under KRS Chapter 13A adopting forms and procedures for the reporting and administration of credits authorized by Section 6 of this Act.

Section 18. KRS 154.12-224 is amended to read as follows:

(1) There is created in the Cabinet for Economic Development the Department of Financial Incentives. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall coordinate all financial assistance, tax credit, and related programs available for business and industry.

(2) The department shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:

(a) The Grant Programs Division, which shall supervise and manage the Economic Development Bond Program, as set forth in KRS 154.12-100, and the Local Government Economic Development Program, as set forth in KRS 42.4588;

(b) The Direct Loan Programs Division, which shall supervise and manage the Direct Loan Program of the Kentucky Economic Development Finance Authority, as set forth in 307 KAR 1:020, and the Small Business Loans Branch;

(c) The Tax Incentive Programs Division, which shall supervise and manage the Kentucky Industrial Development Act Program, as set forth in KRS 154.28-010 et seq., the Kentucky Jobs Development Act Program, as set forth in KRS 154.24-010 et seq., the Kentucky Industrial Revitalization Act Program, as set forth in KRS 154.26-010 et seq., the Kentucky Rural Economic Development Act Program, as set forth in KRS 154.22-010, et seq., and the Kentucky Enterprise Zone Program, as set forth in KRS 154.45-001 et seq., which shall be attached to the division for administrative purposes; and

(d) The Program Servicing Division, which shall perform auditing, monitoring and compliance functions for the Grant Programs Division, the Direct Loan Programs Division, and the Tax Incentive Programs Division within the Department of Financial Incentives.

(3) The department shall also include the following entities:

(a) The ***Kentucky investment***[~~Commonwealth venture capital~~] fund, established by ***Sections 1 to 16 of this Act***[~~KRS 154.20-300 to 154.20-390~~], which shall be attached to the department for administrative purposes and staff support; and

(b) The Bluegrass State Skills Corporation, established by KRS 154.12-204 to 154.12-208, which shall be attached to the department.

Section 19. KRS 304.7-263 is amended to read as follows:

(1) An insurer may invest in venture capital funds or pools organized to encourage equity capital investment in Kentucky, encourage the establishment and expansion of small business and industry, and encourage the development of new job opportunities in Kentucky.

(2) The ***Kentucky investment***[~~Commonwealth venture~~] fund established in ***Sections 1 to 16 of this Act***[~~KRS 154.20-300 to 154.20-390~~] shall be eligible for investment under this section.

(3) An insurer shall not have more than one percent (1%) of its assets invested under this section.

Section 20. KRS 154.47-040 is amended to read as follows:

(1) Three (3) or more secondary wood products businesses may establish a flexible manufacturing network for the purposes deemed appropriate by those businesses upon application to the Cabinet for Economic Development, and, if approved, may become eligible for business incentives and priority consideration for state economic development loans and grants as provided in KRS 154.47-015 to 154.47-070 and KRS 42.455 and as may be otherwise provided by law.

(2) The Kentucky Wood Products Competitiveness Corporation, in cooperation and in conjunction with the Cabinet for Economic Development, shall assist with the development and promotion of secondary wood industry business networks and projects. The corporation shall provide development and promotion advice and assistance that seeks to provide a

formalized, collaborative mechanism that will allow three (3) or more secondary wood industry businesses to: pool expertise; improve technology, develop new markets, improve employee skills, increase capitalization, improve product and production quality, and develop a system of collective intelligence among participating entities.

(3) The corporation shall assemble and keep in its office information concerning the various secondary wood products requirements of state capital construction and renovation projects. This information shall be made available to any secondary wood industry business that seeks business with state agencies. The corporation shall assist secondary wood industry businesses and business networks with the collaborative design and product development specifications of state capital construction and renovation projects.

(4) Applications of secondary wood products businesses as prescribed in subsection (1) of this section shall not be approved by the cabinet unless first reviewed by the board. The board shall upon receipt of an application complete its review and take action thereon within ninety (90) days from the date of receipt.

(5) Any business firm that is a member of an approved network as set forth in this section shall be eligible for priority consideration for financial incentives, including loans, grants, and tax credits programs under the authority of the Kentucky Economic Development Finance Authority as set forth in this chapter[~~, and investment programs of the Commonwealth Venture Fund as set forth in KRS 154.20-300 to 154.20-390~~].

(6) Nothing contained in this section shall be so construed as waiving standard eligibility requirements and sound business qualifications applicable to any business making an application to the Kentucky Economic Development Finance Authority for state financial assistance programs under its authority and responsibility.

Section 21. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, and 141.407;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The[~~ Commonwealth Venture Fund~~] credit ***for cash contributions in investment funds*** permitted by ***Section 6 of this Act***[~~KRS 154.20-340~~];

(h) The low income credit permitted by KRS 141.066; and

(i) The household and dependent care credit permitted by KRS 141.067.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, and 141.407;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090; and

(g) The[~~ Commonwealth Venture Fund~~] credit ***for cash contributions to investment funds*** permitted by ***Section 6 of this Act***[~~KRS 154.20-340~~].

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

SECTION 22. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;

(b) "Investment fund" has the same meaning as set forth in Section 2 of this Act;

(c) "Investment fund manager" has the same meaning as set forth in Section 2 of this Act;

(d) "Investor" has the same meaning as set forth in Section 2 of this Act; and

(e) "Tax credit" means the credit provided for in Section 6 of this Act.

(2) (a) An investor which is a domestic life insurance company shall be entitled to the credit certified by the authority under subsection (6) of Section 4 of this Act against the domestic life insurance property tax on taxable capital due computed as provided by KRS 136.320.

(b) An investor which is a foreign life insurance company shall be entitled to the credit certified by the authority under subsection (6) of Section 4 of this Act against the foreign life insurance company premium receipts tax due computed as provided by KRS 136.330.

(c) An investor which is a corporation shall be entitled to the credit certified by the authority under subsection (6) of Section 4 of this Act against the corporation license tax due computed as provided by KRS 136.070.

(d) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of Section 6 of this Act.

Section 23. KRS 154.10-070 is amended to read as follows:

(1) The board shall have authority to direct the cabinet to initiate any new programs that it deems appropriate, including, but not limited to:

(a) A seed-stage financing program to provide seed-stage financing to innovative growth-oriented, emerging, and small Kentucky firms as distinguished from seed-capital financing by the level of risk and return associated with the investment[~~. If this program is created, the cabinet may contract for its administration with the Commonwealth venture fund~~];

(b) An applied research and development finance program to provide matching grants to Kentucky's industries and universities to conduct applied research of strategic importance to Kentucky's economy. If this program is created, the cabinet may contract for its administration with the Kentucky Science and Technology Council, Inc.;

(c) A government permitting and expediting program to assist businesses in expediting government permits and regulatory requirements;

(d) A surety bonding program to provide bonding assistance for small businesses in the form of education of the bonding process, bond waivers, and the creation of a bond fund;

(e) A Kentucky export authority to utilize the services of the Kentucky World Trade Center, university export trade programs, and export programs provided by other agencies within a context to provide financial assistance to Kentucky exporters through the financing of accounts receivable, letters of credit, and loan guarantees, and the use of commissioned sales agents in foreign countries;

(f) A flexible enterprise networks program to encourage and enable Kentucky firms to apply competitive management practices, modernize, and effectively compete in national and international markets;

(g) An economic response network to collect data on the needs of existing businesses in order to determine if a particular business or business sector is in trouble and about to fail or relocate, or is contemplating major expansion within Kentucky. The purpose of the program would be to assist the cabinet in developing responses to suit specific needs of Kentucky businesses and industries;

(h) A Kentucky technology service to integrate, broker, and deliver technology and related business services primarily to small- and medium-sized Kentucky firms. The service would fulfill its mission by brokering firms to the best possible existing public, private or university expert, by consulting directly with firms when no expert is available, and by coordinating seminars on technologies, management practices, and issues of competitive importance to Kentucky firms;

(i) A multimedia center to develop teleconference capabilities and other specialized marketing presentations for the use of state agencies and regional economic development centers and communities. The center would support Kentucky's marketing efforts, enhance the state's image of being progressive, and provide marketing and informational support to communities throughout the state;

(j) A community preparedness program to develop a list of criteria to identify those communities which are prepared to accommodate significant new or expanding businesses, to identify deficiencies of those communities which do not meet the criteria, and to provide assistance to those communities to eliminate their economic development deficiencies.

1. Areas in which criteria would be developed to identify communities' preparedness, would include, but not be limited to: infrastructure, site availability and conditions, environmental conditions, workforce, education, business and community support, housing, and health care.

2. Communities having deficiencies should meet the stated criteria through assistance from readily available regional and local facilities and institutions; and

(k) A marketing assistance program to assess the resources of communities and to assist them in marketing and promotional efforts.

Section 24. The following KRS sections are repealed:

154.20-300 Short title for KRS 154.20-300 to 154.20-390.
154.20-305 Purposes of KRS 154.20-300 to 154.20-390.
154.20-310 Definitions for KRS 154.20-300 to 154.20-390.
154.20-320 Establishment and operation of fund.
154.20-330 Investment by entity not subject to taxes listed in KRS 154.20-310 and 154.20-360.
154.20-340 Investment tax credits -- Years -- Carryovers.
154.20-350 Maximum credits.
154.20-360 Application of tax credit.
154.20-370 Procedure to receive tax credit.
154.20-380 Loss of credit through early redemption.
154.20-390 Reporting requirements.

The Committee Substitute to **HB 206** is as follows:

AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The purposes of Sections 1 to 15 of this Act are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small businesses in Kentucky, to provide additional jobs, and to encourage the development of new products and technologies in the state through capital investments. It is the intent of Sections 1 to 15 of this Act to give investment preference to Kentucky small businesses showing a potential for rapid growth. Insofar as possible, any investment made in a Kentucky small business under the provisions of Sections 1 to 15 of this Act shall be used by that business to leverage additional capital investments from other sources.

SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 15 of this Act, unless the context clearly requires otherwise:

(1) "Administrative expenses and fees" means expenses and fees incurred by the investment fund in connection with the management and administration of qualified investments;

(2) "Agreement" means an investment fund agreement entered into pursuant to subsection (2) of Section 3 of this Act by the authority and an investment fund manager on behalf of the investment fund, the investment fund manager, and any investor in the investment fund;

(3) "Applicant" means any person or entity who has not received certification from the authority as an investment fund manager, but who has or will submit an application to the authority for certification as an investment fund manager;

(4) "Authority" means the Kentucky Economic Development Finance Authority;

(5) "Cash contribution" means an investment of money by an investor in an investment fund under the terms of Sections 1 to 15 of this Act;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Credit" means a credit against state income or license tax liability awarded by the authority pursuant to Section 6 of this Act for cash contributions to investment funds;

(8) "Entity" means any corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

(9) "Financial institution" means any banking corporation or association, trust company, savings and loan association, savings bank, credit union, or other entity principally engaged in the business of lending money or receiving or soliciting money on deposit;

(10) "Investment fund" means any entity that is organized by an investment fund manager in compliance with applicable state and federal securities laws and regulations, and is certified by the authority to be capitalized with cash contributions pursuant to Sections 1 to 15 of this Act;

(11) "Investment fund manager" means any person or entity that is authorized to act in such capacity by any applicable securities regulator and that has been certified by the authority to manage one (1) or more investment funds authorized under the provisions of Sections 1 to 15 of this Act;

(12) "Investor" means any person or entity, other than a financial institution or an insurance company that is subject to state tax liability and that makes a cash contribution to an investment fund in accordance with the provisions of Sections 1 to 15 of this Act;

(13) "Qualified activity" means any industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, agricultural enterprise or agribusiness activity. A "qualified activity" does not include any activity principally engaged in by financial institutions, commercial development companies, credit companies, financial or investment advisors, brokerage or financial firms, other investment funds or investment fund managers, charitable and religious institutions, oil and gas exploration companies, insurance companies, residential housing developers, retail establishments, or any other activity that the authority determines in its discretion to be against the public interest, against the purposes of Sections 1 to 15 of this Act, or in violation of any law;

(14) "Qualified investment" means a contribution of money to a small business by an investment fund, in compliance with applicable state and federal securities laws and regulations, seeking a financial return based upon that contribution and in consideration for which the investment fund acquires or receives any of the following:

(a) 1. An equity interest in the small business, such as a general or limited partnership interest, common or preferred stock with or without voting rights and without regard to seniority position, forms of subordinate or convertible unsecured debt, or both, with warrants, rights, or other means of equity conversion attached; or

2. An unsecured debt instrument the maturity date of which is longer than one (1) year and which is made or issued by the small business; or

(b) Any other debt instrument issued or made by the small business.

Excluding any investment of money that has not been certified by the authority as a cash contribution under Sections 1 to 15 of this Act, fifty percent (50%) or more of any investment fund shall be held in interests or debt instruments as specified in paragraph (a) of this subsection;

(15) "Small business" means any entity which at the time a qualified investment is made by an investment fund:

(a) Has net worth of three million dollars ($3,000,000) or less and net income after federal income taxes for each of the two (2) preceding fiscal years of two million dollars ($2,000,000) or less;

(b) Is actively and principally engaged in a qualified activity within the Commonwealth, or will be actively and principally engaged in a qualified activity within the Commonwealth after the making of a qualified investment by an investment fund;

(c) Has no more than one hundred (100) employees; and

(d) Has more than fifty percent (50%) of its assets, operations, and employees located in Kentucky.

The criteria set forth in paragraphs (a) and (c) of this subsection do not apply to any second or subsequent qualified investments.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority may commence certification of investment funds, cash contributions, and investment fund managers on or after July 1, 1999. No tax credit authorized by Section 6 of this Act shall become effective until the investment fund to which the cash contribution is made and from which the credit accrues, has been implemented in compliance with applicable state and federal securities laws and regulations. Any investor whose cash contribution to an investment fund has been certified by the authority shall be entitled to a credit equal to forty percent (40%) of that cash contribution as provided in Section 6 of this Act. Except as otherwise provided in subsection (6) of Section 5 of this Act, any investment of money made to an investment fund shall not be considered a part of the investment fund for purposes of Sections 1 to 15 of this Act and accordingly shall not be subject to the requirements of Sections 1 to 15 of this Act unless the investment of money has been certified by the authority as a cash contribution under Sections 1 to 15 of this Act. A person or entity seeking to be certified as an investment fund manager for the operation of one (1) or more investment funds shall make written application to the authority pursuant to Section 4 of this Act, in addition to complying with applicable state and federal securities laws and regulations.

(2) (a) Concurrent with certification of the investment fund and the investment fund manager, the authority and the investment fund manager, on behalf of itself and any investors in the investment fund, shall enter into an

agreement with respect to the investment fund. The terms and provisions of each agreement shall be determined by negotiations between the authority and the investment fund manager. If an investment fund manager or any investor in an investment fund fails to comply with their respective obligations under the agreement, the authority may, at its option do any one (1) or more of the following:

1. Suspend the availability of the credits;

2. Pursue any remedy provided under the agreement, including termination of the agreement; or

3. Pursue any other remedy at law to which it may be entitled.

(b) All remedies provided in this subsection are cumulative.

(3) At least one million dollars ($1,000,000) in cash contributions approved for tax credits shall be transferred into the investment fund within ninety (90) days from the effective date of the agreement between the authority and the investment fund manager . The effective date of the agreement shall be the date of certification of the investment fund and the investment fund manager by the authority. All cash contributions in excess of one million dollars ($1,000,000) that have been approved for tax credits as provided in Sections 1 to 15 of this Act in connection with the initial certification of the investment fund shall be transferred into the investment fund within one (1) year of the effective date of the agreement.

(4) An investment fund shall invest cash contributions in qualified investments according to the following schedule:

(a) On average during the second year after the effective date of the agreement, at least twenty-five percent (25%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;

(b) On average during the third year after the effective date of the agreement, at least fifty percent (50%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;

(c) On average during the fourth year after the effective date of the agreement, at least seventy-five percent (75%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;

(d) On average during the fifth year after the effective date of the agreement, at least ninety percent (90%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall be invested in small businesses;

(e) On average during the sixth year after the effective date of the agreement, at least seventy-five percent (75%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall remain invested in small businesses;

(f) On average during the seventh year after the effective date of the agreement, at least fifty percent (50%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall remain invested in small businesses ; and

(g) On average during the eighth year after the effective date of the agreement, at least twenty-five percent (25%) of the investment fund, exclusive of any amounts otherwise applied toward administrative expenses and fees, shall remain invested in small businesses.

For purposes of determining the percentage invested in small businesses on average during any particular year pursuant to this section, the amount invested in small businesses shall be the average amount so invested at the end of each calendar month during the year, and the amount of the investment fund required to be invested shall be the aggregate amount of cash contributions certified by the authority.

(5) No tax credits shall be awarded by the authority for cash contributions to investment funds after December 31, 2004. No investment funds or investment fund managers shall be certified by the authority after December 31, 2003.

SECTION 4. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The certification of investment funds and investment fund managers shall be made pursuant to an application to the authority, upon compliance with any applicable state and federal securities laws and regulations or a statement by the investment fund and the investment fund manager that such compliance will be obtained either simultaneously with or prior to submission of such application to the authority. In the application, the applicant shall disclose to the authority the following information, all of which shall be considered by the authority in certifying investment funds and investment fund managers:

(a) The applicant's business plan, including the maximum amount of cash contributions to be solicited for the investment fund, and strategy for operation of the proposed investment fund;

(b) The total amount of commitments for cash contributions the applicant has received from potential investors,

including receipt of not less than one million dollars ($1,000,000) in cash contributions deposited in an escrow account established in accordance with subsection (6) of Section 5 of this Act;

(c) The name, address, and tax identification or Social Security number of each potential investor and the amount of cash contributions each potential investor has committed to the proposed investment fund;

(d) The relevant experience of the applicant or the applicant's management, and their demonstrated ability to manage the proposed investment fund;

(e) A process for disclosing to investors the tax credits available to investors pursuant to Sections 1 to 15 of this Act, which shall include, but not be limited to, the disclosures described in subsection (7) of Section 5 of this Act;

(f) The location and account number of an escrow account that has been established for investors for the period of time between receipt of cash contributions by the applicant and the certification of the investment fund and the investment fund manager by the authority;

(g) The disclosure documents to be used in connection with the offering and investment in the investment fund;

(h) The exemption or registration provision that is being relied upon or intended to be relied upon by both the investment fund and the investment fund manager to permit this offering of securities and the activity of the investment fund manager in relation to such offering, in compliance with applicable state and federal securities laws and regulations; and

(i) Any additional information the authority deems necessary or appropriate. An investment fund manager seeking to have certified additional cash contributions to a certified investment fund shall submit to the authority a written amendment to the application in a form acceptable to the authority.

(2) The contents of applications submitted to the authority by applicants shall be treated as confidential by the Commonwealth and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.

(3) The authority shall have, in addition to its other powers provided in this chapter and as otherwise provided by law, all powers and authority, not explicitly prohibited by statute, that are necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of Sections 1 to 15 of this Act, including, but not limited to, power to:

(a) Require consultation, advisory, and legal fees and other expenses the authority deems necessary or incident to the preparation, adoption, implementation, modification, or enforcement of the terms of any agreement or other document, or otherwise necessary or incident to any transaction;

(b) Require the investment fund manager to pay these fees and expenses directly to the person providing such consultation, advisory, legal, or other services on behalf of the authority; and

(c) Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges.

Any payments made by an investment fund manager pursuant to this subsection may be passed on to such investment fund manager's investment fund.

(4) An investment fund's stated purpose shall be to encourage and assist in the creation, development, or expansion of small businesses located in Kentucky.

(5) The criteria considered by the authority for the certification of investment fund managers shall include, but not be limited to, compliance by those persons with applicable state and federal securities laws and regulations, a review of the applicant and its business plan, the investment strategy for the investment fund, the relevant experience of the applicant or the applicant's management, and the applicant's demonstrated ability to manage the investment fund, and the receipt by the applicant of aggregate cash contributions from investors to the investment fund of not less than one million dollars ($1,000,000).

(6) Following certification of an investment fund and an investment fund manager and execution of the agreement by the authority and the investment fund manager, the authority shall provide each investor whose cash contribution has been certified by the authority with a certificate setting forth the amount of the tax credits the investor shall be entitled to receive under Section 6 of this Act. Following certification of any additional cash contributions to an investment fund after the initial certification of the investment fund, the authority shall provide each investor making an additional cash contribution with a certificate setting forth the amount of additional credits the investor shall be entitled to receive under Section 6 of this Act. Each investor shall file a copy of the certificate with the investor's state tax return in accordance with Section 8 of this Act.

(7) The authority may establish additional procedures and standards as it deems necessary for the certification of investment funds and investment fund managers by the promulgation of administrative regulations in accordance

with KRS Chapter 13A.

SECTION 5. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) An investment fund manager shall have a business office located within the Commonwealth. That office shall have a listed telephone number and shall be open to the public during normal business hours.

(2) The initial capitalization of an investment fund with cash contributions from investors shall not be less than one million dollars ($1,000,000). Any investment of moneys received by the investment fund in excess of the maximum amount of cash contributions proposed to be solicited in the application shall not be eligible for tax credits. In no event shall any investment of money received by the investment fund in excess of ten million dollars ($10,000,000) be eligible for credits. Cash contributions for all investment funds shall be raised after the effective date of this Act.

(3) Total qualified investments made by an investment fund, including initial and subsequent investments made by an investment fund, in any single small business using certified cash contributions shall not exceed twenty-five percent (25%) of the cash contributions in the investment fund; provided that this restriction shall not apply to investments of money that have not been certified as cash contributions under Sections 1 to 15 of this Act.

(4) An investment fund manager may operate separate investment funds pursuant to separate applications submitted to and approved by the authority, and assuming this activity is in compliance with any applicable state and federal securities laws and regulations as evidenced by a written statement to the authority by an investment fund manager to that effect.

(5) Following the initial certification of an investment fund, any additional cash contributions to that investment fund shall be certified by the authority.

(6) An investment fund manager seeking to establish an investment fund, or to increase the amount of cash contributions to an existing investment fund, shall establish an escrow account with a financial institution located within the Commonwealth into which cash contributions shall be deposited and held for the period of time between their receipt by the investment fund manager and either certification by the authority of the investment fund, or the certification by the authority of the increased cash contributions, whichever is later. No qualified investments shall be made using cash contributions until the new or expanded investment fund is certified by the authority. If the authority denies certification of the new or expanded investment fund, all cash contributions received by the applicant relating to the new or expanded investment fund shall be returned to investors within ten (10) calendar days.

(7) An applicant soliciting cash contributions for the initial capitalization of an investment fund, or an investment fund manager soliciting additional cash contributions for an expanded investment fund, shall disclose in advance in writing to each investor, in addition to any other items required by law, that:

(a) No tax credit will be available under the provisions of Sections 1 to 15 of this Act until the investment fund and the investment fund manager have complied with applicable state and federal securities laws and regulations, have been certified by the authority, and an agreement between the authority and the investment fund manager on its behalf and on behalf of the investors has been executed, and the terms of that agreement have been disclosed in writing to each investor;

(b) No tax credit will be available under the provisions of Sections 1 to 15 of this Act until the investor's cash contribution to the investment fund has been certified by the authority; and

(c) The Commonwealth shall be immune from liability for any losses or damages investors may incur in connection with any cash contributions made to an investment fund or any qualified investments made by an investment fund in small businesses.

SECTION 6. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) An investor shall be entitled to a nonrefundable credit against the income tax imposed by KRS 141.020 or 141.040, or the corporation license tax imposed by 136.070 in any tax year after December 31, 1998, during which a cash contribution to a certified investment fund is made. The aggregate tax credit amount available to any investor shall not exceed forty percent (40%) of the cash contribution made by the investor to an investment fund. The aggregate tax credit amount available to each investor shall be certified by the authority as provided in subsection (6) of Section 4 of this Act.

(2) The tax credit amount that may be claimed by an investor in any tax year shall not exceed twenty-five percent (25%) of the initial aggregate credit amount certified by the authority as available to the investor.

(3) If the credit amount that may be claimed in any tax year, as determined under subsections (1) and (2) of this section exceeds the investor's combined income tax and corporate license tax liabilities for that year, the investor may carry the excess tax credit forward until the tax credit is used, provided that the carry forward of any excess tax credit

shall not increase the twenty-five percent (25%) limitation established by subsection (2) of this section, and provided further that any tax credits not used within fifteen (15) years of the initial certification by the authority of the aggregate tax credit amount available to the investor shall be lost.

(4) The tax credits allowed by this section shall not apply to any liability an investor may have for interest, penalties, or any other additions to the investor's tax liability.

(5) The tax credits allowed by this section are not transferable.

SECTION 7. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The total amount of credits certified by the authority for any single investment fund shall not exceed, in the aggregate, four million dollars ($4,000,000) for all investors and all taxable years. If aggregate cash contributions to a single investment fund exceed ten million dollars ($10,000,000) for all investors for all taxable years, the authority shall allocate credits to investors in the order that cash contributions are made by investors to the investment fund.

(2) The total credits certified by the authority for all investors in all investment funds shall not exceed:

(a) Five million dollars ($5,000,000), in the aggregate, during the period from July 1, 1999, through June 30, 2000;

(b) Ten million dollars ($10,000,000), in the aggregate, during the period from July 1, 2000, through June 30, 2001, including credits authorized by the authority in the prior year;

(c) Fifteen million dollars ($15,000,000), in the aggregate, during the period from July 1, 2001, through June 30, 2002, including credits authorized by the authority in prior years; and

(d) Twenty million dollars ($20,000,000), in the aggregate, from July 1, 2002, and thereafter, including credits authorized by the authority in prior years.

The authority shall approve the credits to investors in the order that investment funds and investment fund managers are certified by the authority.

SECTION 8. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) To receive the credit provided by Section 6 of this Act, an investor must:

(a) Claim the credit on the investor's annual state tax returns in the manner prescribed by the Revenue Cabinet;

(b) File with the Revenue Cabinet and with the investor's annual state tax returns a copy of the disclosure form submitted by the investment fund manager under subsection (2) of this section; and

(c) File with the Revenue Cabinet and with the investor's annual state tax returns a copy of the certification of the investor's credit, issued by the authority under subsection (6) of Section 4 of this Act at the time of certification of the investment fund and of the investment fund manager and at the time of certification of additional cash contributions, as applicable.

(2) Each investment fund manager shall complete disclosure forms promulgated by the Revenue Cabinet as administrative regulations under KRS Chapter 13A, detailing the following information with respect to each cash contribution:

(a) The name, address, and Social Security number or employer identification number, as applicable, of the investment fund manager and the investment fund;

(b) The name, address, and Social Security number or employer identification number, as applicable, of each investor; and

(c) The total amount of all cash contributions made by each investor.

(3) The disclosure forms required under subsection (2) of this section shall be filed by the investment fund manager with the Revenue Cabinet and the authority within thirty (30) days after receipt of certification from the authority. Copies of these forms shall be mailed to each investor by the investment fund manager on or before that same date.

(4) The contents of an investor's filings under subsection (1) of this section and the disclosure form required under subsection (2) of this section shall be treated by the authority and by the Revenue Cabinet as confidential and shall not be considered public records under the Kentucky Open Records Act, KRS 61.870 to 61.884.

SECTION 9. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Subject to subsection (4) of Section 3 of this Act, if a cash contribution which is the basis for a credit under the provisions of Sections 1 to 15 of this Act is redeemed by the investment fund, or if the investment fund allows the cash contribution to be withdrawn by the investor within five (5) years after the date of certification of the cash contributions by the authority, the credit provided by Section 6 of this Act for that cash contribution shall be

disallowed, and the investor shall pay to the State Treasurer an amount equal to the amount of credits previously claimed with respect to those cash contributions, plus interest at the rate of two percent (2%) per month, compounded monthly from the date credits were taken by the investor. This payment shall be included with the investor's state tax return or returns for the period in which the redemption or withdrawal occurred. When payments are made to the State Treasurer under this section, the amount remitted shall be handled in the same manner as if no credit had been allowed.

(2) An investment fund that fails to make or maintain investments in small businesses pursuant to Sections 1 to 15 of this Act, or that otherwise violates the provisions of Sections 1 to 15 of this Act, shall pay to the State Treasurer a penalty in an amount equal to the amount of all credits claimed by the investors making cash contributions to the investment fund, plus interest at the rate of two percent (2%) per month, compounded monthly, from the date the cash contributions were certified by the authority. If the investment fund fails to pay the penalty and interest in full as required by the Revenue Cabinet, each investor shall be personally liable to the Revenue Cabinet for that investor's pro rata share of the unpaid penalty and the investment fund manager shall be liable to the Revenue Cabinet for all such interest. Any payment of unpaid penalty by an investor shall be included with the investor's state tax return for the period in which the failure or violation occurred. An investor's pro rata share shall be determined by dividing the total amount of cash contributions made by the investor in the investment fund, by the total amount of cash contributions made by all investors in the investment fund. The secretary of the Revenue Cabinet shall give notice in writing to the authority, the investment fund manager, and the investors of any penalties imposed. The secretary of the Revenue Cabinet may abate any imposed penalty upon written request, if the investment fund manager establishes reasonable cause for the failure to make qualified investments in small businesses under the provisions of Sections 1 to 15 of this Act, or to otherwise comply with the provisions of Sections 1 to 15 of this Act. The State Treasurer shall deposit any amounts received pursuant to this section in the Commonwealth's general fund.

(3) The administration of this section shall be the responsibility of the Revenue Cabinet.

SECTION 10. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Each investment fund manager shall file semiannual reports with the secretary of the Revenue Cabinet and with the authority, on or before the sixtieth day, and the two-hundred-fortieth day, of each fiscal year of the investment fund. These reports shall include information that the authority prescribes from time to time, including, but not limited to, the following:

  (a) For each small business in which qualified investments are made by the investment fund during the reporting period, the name and address of the small business, the amount of qualified investments made by the investment fund in the small business during the reporting period, and the job creation anticipated and achieved by the small business during the reporting period;

  (b) An affidavit from each small business in which a qualified investment was made during the reporting period, prepared by any authorized officer, partner, trustee, member, or manager of the small business, which sets forth:

    1. That the small business qualifies as a small business under Sections 1 to 15 of this Act; and

    2. A brief description of the activities of the small business;

  (c) An affidavit prepared by the investment fund manager or, if the investment fund is an entity, by an authorized officer, partner, trustee, member, or manager of the investment fund manager pertaining to:

    1. Each small business in which a qualified investment has been made, including, without limitation, qualified investments made prior to the reporting period, that sets forth:

      a. That each small business is or continues to be, as applicable, actively and principally engaged in a qualified activity; and

      b. That each small business qualifies as a small business under the provisions of Sections 1 to 15 of this Act;

    2. The amount of each distribution to an investor and redemption of cash contributions made by the investment fund during the reporting period and in the aggregate since the date of certification of the investment fund;

    3. The name and address of each investor, and the amount and date of the cash contribution to the investment fund of each investor who is entitled to the credit; and

    4. The continued compliance by the investment fund and the investment fund manager with all applicable state and federal securities laws and regulations; and

  (d) A statement from the investment fund manager as to the securities exemption or registration provision relied

upon by the small business with respect to the qualified investment by the investment fund in the small business.

(2) The authority shall provide quarterly written status reports to the standing Appropriations and Revenue Committee of each house or to the Interim Joint Committee on Appropriations and Revenue, as appropriate concerning the activities of the Kentucky Investment Fund for each three (3) month period beginning July 1, 1999. On or before November 1 of each year, the authority shall make an annual report for the fiscal year ending the preceding June 30 to the Governor and the Legislative Research Commission. The quarterly status report and the annual report shall include, but not be limited to, the following information:

(a) The total number of investors and the aggregate amount of cash contributions to all investment funds, categorized by the types of entities through which investors conduct business, amounts of cash contributions, and geographical distribution of investors, including area development districts; and

(b) The total number and amounts of qualified investments made by each investment fund, categorized by type of businesses, amount of investment, job creation anticipated and achieved, geographical distribution, including area development districts, and new products and technologies developed.

(3) The contents of the semiannual reports from investment fund managers to the authority described in subsection (1) of this section shall be treated by the authority as confidential, and shall not be considered a public record under the Kentucky Open Records Act, KRS 61.870 to 61.884.

(4) The authority may charge a fee in connection with the administration and processing of semiannual reports made by investment fund managers.

SECTION 11. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Each investment fund manager shall cause the books and records of the investment fund to be audited on an annual basis by an independent certified public accountant in accordance with generally-accepted accounting principles consistently applied. The audit shall address the financial condition of the investment fund and compliance with the provisions of Sections 1 to 15 and Section 16 of this Act, including, but not limited to, those provisions requiring that qualified investments be made within certain time limits. Each year the audit report shall be completed and certified by the independent certified public accountant and delivered to the secretary of the Revenue Cabinet and the authority within ninety (90) days after the end of the investment fund's fiscal year.

(2) The authority and the Revenue Cabinet, individually or collectively, may examine, under oath, any of the officers, trustees, partners, members, managers, directors, agents, employees, or investors of an investment fund or an investment fund manager, or if the investment fund manager is a person, an investment fund manager, regarding the affairs and business of the investment fund. The authority and the Revenue Cabinet, individually or collectively, may issue subpoenas and subpoenas duces tecum and administer oaths. Refusal to obey such a subpoena or subpoena duces tecum may be reported to the Franklin Circuit Court, which shall enforce the subpoena or subpoena duces tecum according to the rules of civil or criminal procedure, as applicable.

(3) In addition to the audits required by this section, the authority or the Revenue Cabinet may audit one (1) or more investment funds or investment fund managers in any year on a random basis or for cause. The authority or the Revenue Cabinet may also audit any small business in which an investment fund has made a qualified investment, or in which an investment fund proposes to make a qualified investment, on a random basis or for cause. Nothing in this section shall be construed to prohibit the Revenue Cabinet from conducting any audit relating to the administration or enforcement of the tax laws of the Commonwealth which the Revenue Cabinet determines to be appropriate.

(4) If any audit conducted pursuant to this section discloses that an investment fund or investment fund manager is not in compliance with the provisions of Sections 1 to 15 and Section 16 of this Act, the authority and the Revenue Cabinet may consult with one another with respect to this noncompliance and the Revenue Cabinet may exercise any of its powers to protect the Commonwealth's interest and to enforce the provisions of Sections 1 to 15 and Section 16 of this Act.

(5) The authority may give an investment fund manager written notice of any noncompliance with the provisions of Sections 1 to 15 of this Act and specify a period of time the investment fund manager shall have to cure any noncompliance. Failure to cure any such noncompliance within the period of time specified by the authority may result in further action by the authority pursuant to this section.

(6) The authority and the Revenue Cabinet may each charge a fee in connection with the administration and review of annual audits of investment funds under this section.

(7) Nothing in this section shall be construed to prohibit the Department of Financial Institutions, Division of Securities, or any other securities regulatory organization or body with jurisdiction over the activity of an investment fund or the investment fund manager from conducting any examination or investigation relating to the securities

activities of the investment fund or investment fund manager. If any examination or investigation conducted pursuant to any securities laws or regulations discloses that an investment fund or investment fund manager is not in compliance with any provision of any applicable securities laws or regulations, the appropriate securities regulator may take whatever action it deems appropriate in accordance with such securities laws and regulations to respond to the noncompliance, notwithstanding any action the authority or the Revenue Cabinet may or may not take with respect to the noncompliance.

SECTION 12. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The Commonwealth, the authority, or any officer, director, official, employee, or agent of the Commonwealth or the authority shall not be liable to any investor or to any investment fund or to any investment fund manager as a result of Sections 1 to 15 of this Act, or any of the activities authorized by Sections 1 to 15 of this Act. This limitation of liability includes, without limitation:

(1) Losses or damages investors incur in connection with any cash contributions made to an investment fund or any qualified investments made by an investment fund in small businesses; and

(2) Any claim, liability, obligation, loss, damage, assessment, judgment, cost, and expense of any kind or character relating to federal or state securities laws, rules, regulations, or orders.

SECTION 13. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) An investment fund may be dissolved or liquidated only after notice to and approval of that dissolution or liquidation by the authority in compliance with any applicable state or federal securities laws or regulations. The authority may promulgate administrative regulations in accordance with KRS Chapter 13A to establish procedures for application for approval to dissolve or liquidate an investment fund.

(2) This section shall not prohibit an investment fund from making distributions to investors in compliance with any applicable state or federal securities laws or regulations, if the investment fund is in compliance with the terms of Sections 1 to 15 of this Act and if these distributions are not made in connection with the dissolution or liquidation of the investment fund or prohibited by subsection (4) of Section 3 of this Act or subsection (1) of Section 9 of this Act.

SECTION 14. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) No qualified investments shall be made in a small business that is the "alter ego" of the investment fund or the investment fund manager. For purposes of this subsection, a business is an "alter ego" of an investment fund or an investment fund manager if any of the following criteria are satisfied:

  (a) The small business is owned in whole or in part by an investor, officer, director, partner, member, manager, trustee or employee of the investment fund or the investment fund manager;

  (b) The small business employs on a full-time or part-time basis an investor, officer, director, partner, member, manager, trustee, or employee of the investment fund or the investment fund manager; or

  (c) An investor, officer, director, partner, member, manager, trustee, or employee of the investment fund or the investment fund manager has a direct or indirect financial interest in the small business, other than by virtue of the qualified investment made by the investment fund to the small business.

(2) No investor, officer, director, partner, member, manager, trustee, or employee of an investment fund or investment fund manager shall occupy any management position in any small business in which that investment fund has made a qualified investment unless:

  (a) The person is filling that management position at the direction of the investment fund manger in an effort to remedy problems arising from a lack of profitability of the small business, or from dishonesty of the persons otherwise managing the small business; or

  (b) The authority approves the investor, officer, director, partner, member, manager, trustee, or employee of an investment fund or investment fund manager serving in the management position in the small business.

(3) No investor, officer, director, partner, member, manager, trustee, or employee of an investment fund or investment fund manager shall have a direct or indirect financial interest in any small business in which the investment fund has a qualified investment, except by virtue of the qualified investment made by the investment fund in the small business.

(4) No officer, member, or employee of the authority shall have a direct or indirect financial interest in any investment fund or investment fund manager.

SECTION 15. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 154 IS CREATED TO READ AS

FOLLOWS:

Sections 1 to 15 of this Act shall be known as the Kentucky Investment Fund Act.

SECTION 16. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Authority" means the Kentucky Economic Development Finance Authority as created pursuant to KRS 154.20-010;

(b) "Investor" has the same meaning as set forth in Section 2 of this Act;

(c) "Investment fund" has the same meaning as set forth in Section 2 of this Act;

(d) "Investment fund manager" has the same meaning as set forth in Section 2 of this Act; and

(e) "Tax credit" means the credits provided for in Section 6 of this Act.

(2) (a) An investor which is an individual or a corporation shall be entitled to the credit certified by the authority under subsection (6) of Section 4 of this Act against the income tax due computed as provided by KRS 141.020 or 141.040, respectively.

(b) The amount of the certified tax credit that may be claimed in any tax year of the investor shall be determined in accordance with the provisions of Section 6 of this Act.

(3) (a) In the case of an investor that is an S-corporation, partnership, limited partnership, limited liability company, or limited liability partnership, the amount of the tax credit certified by the authority under subsection (6) of Section 4 of this Act shall be apportioned among the shareholders, partners, or members thereof, as applicable, at the same ratio as the shareholders', partners', or members' distributive shares of income are determined for the tax year during which the amount of the credit is certified by the authority.

(b) The amount of the tax credit apportioned to each shareholder, partner, or member that may be claimed in any tax year of the shareholder, partner, or member shall be determined in accordance with the provisions of Section 6 of this Act.

(4) (a) In the case of an investor that is a trust, the amount of the tax credit certified by the authority under subsection (6) of Section 4 of this Act shall be apportioned to the trust and the beneficiaries on the basis of the income of the trust allocable to each for the tax year during which the tax credit is certified by the authority.

(b) The amount of tax credit apportioned to each trust or beneficiary that may be claimed in any tax year of the trust or beneficiary shall be determined in accordance with the provisions of Section 6 of this Act.

(5) The Revenue Cabinet shall promulgate administrative regulations under KRS Chapter 13A adopting forms and procedures for the reporting and administration of credits authorized by Section 6 of this Act.

Section 17. KRS 154.12-224 is amended to read as follows:

(1) There is created in the Cabinet for Economic Development the Department of Financial Incentives. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. The department shall coordinate all financial assistance, tax credit, and related programs available for business and industry.

(2) The department shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:

(a) The Grant Programs Division, which shall supervise and manage the Economic Development Bond Program, as set forth in KRS 154.12-100, and the Local Government Economic Development Program, as set forth in KRS 42.4588;

(b) The Direct Loan Programs Division, which shall supervise and manage the Direct Loan Program of the Kentucky Economic Development Finance Authority, as set forth in 307 KAR 1:020, and the Small Business Loans Branch;

(c) The Tax Incentive Programs Division, which shall supervise and manage the Kentucky Industrial Development Act Program, as set forth in KRS 154.28-010 et seq., the Kentucky Jobs Development Act Program, as set forth in KRS 154.24-010 et seq., the Kentucky Industrial Revitalization Act Program, as set forth in KRS 154.26-010 et seq., the Kentucky Rural Economic Development Act Program, as set forth in KRS 154.22-010, et seq., and the Kentucky Enterprise Zone Program, as set forth in KRS 154.45-001 et seq., which shall be attached to the division for administrative purposes; and

(d) The Program Servicing Division, which shall perform auditing, monitoring and compliance functions for the Grant Programs Division, the Direct Loan Programs Division, and the Tax Incentive Programs Division within the Department of Financial Incentives.

(3) The department shall also include the following entities:

(a) The ***Kentucky investment***[~~Commonwealth venture capital~~] fund, established by ***Sections 1 to 15 of this Act***[~~KRS~~

~~154.20-300 to 154.20-390~~], which shall be attached to the department for administrative purposes and staff support; and

(b) The Bluegrass State Skills Corporation, established by KRS 154.12-204 to 154.12-208, which shall be attached to the department.

Section 18. KRS 304.7-263 is amended to read as follows:

(1) An insurer may invest in venture capital funds or pools organized to encourage equity capital investment in Kentucky, encourage the establishment and expansion of small business and industry, and encourage the development of new job opportunities in Kentucky.

(2) The ***Kentucky investment***[~~Commonwealth venture~~] fund established in ***Sections 1 to 15 of this Act***[~~KRS 154.20-300 to 154.20-390~~] shall be eligible for investment under this section.

(3) An insurer shall not have more than one percent (1%) of its assets invested under this section.

Section 19. KRS 154.47-040 is amended to read as follows:

(1) Three (3) or more secondary wood products businesses may establish a flexible manufacturing network for the purposes deemed appropriate by those businesses upon application to the Cabinet for Economic Development, and, if approved, may become eligible for business incentives and priority consideration for state economic development loans and grants as provided in KRS 154.47-015 to 154.47-070 and KRS 42.455 and as may be otherwise provided by law.

(2) The Kentucky Wood Products Competitiveness Corporation, in cooperation and in conjunction with the Cabinet for Economic Development, shall assist with the development and promotion of secondary wood industry business networks and projects. The corporation shall provide development and promotion advice and assistance that seeks to provide a formalized, collaborative mechanism that will allow three (3) or more secondary wood industry businesses to: pool expertise; improve technology, develop new markets, improve employee skills, increase capitalization, improve product and production quality, and develop a system of collective intelligence among participating entities.

(3) The corporation shall assemble and keep in its office information concerning the various secondary wood products requirements of state capital construction and renovation projects. This information shall be made available to any secondary wood industry business that seeks business with state agencies. The corporation shall assist secondary wood industry businesses and business networks with the collaborative design and product development specifications of state capital construction and renovation projects.

(4) Applications of secondary wood products businesses as prescribed in subsection (1) of this section shall not be approved by the cabinet unless first reviewed by the board. The board shall upon receipt of an application complete its review and take action thereon within ninety (90) days from the date of receipt.

(5) Any business firm that is a member of an approved network as set forth in this section shall be eligible for priority consideration for financial incentives, including loans, grants, and tax credits programs under the authority of the Kentucky Economic Development Finance Authority as set forth in this chapter[~~, and investment programs of the Commonwealth Venture Fund as set forth in KRS 154.20-300 to 154.20-390~~].

(6) Nothing contained in this section shall be so construed as waiving standard eligibility requirements and sound business qualifications applicable to any business making an application to the Kentucky Economic Development Finance Authority for state financial assistance programs under its authority and responsibility.

Section 20. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, and 141.407;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The ***tax***[~~ Commonwealth Venture Fund~~] credit ***for cash contributions in investment funds*** permitted by ***Section 6 of this Act***[~~KRS 154.20-340~~];

(h) The low income credit permitted by KRS 141.066; and

(i) The household and dependent care credit permitted by KRS 141.067.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, and 141.407;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090; and

(g) The ***tax***[~~ Commonwealth Venture Fund~~] credit ***for cash contributions to investment funds*** permitted by ***Section 6 of this Act***[~~KRS 154.20-340~~].

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 21. KRS 154.10-070 is amended to read as follows:

(1) The board shall have authority to direct the cabinet to initiate any new programs that it deems appropriate, including, but not limited to:

(a) A seed-stage financing program to provide seed-stage financing to innovative growth-oriented, emerging, and small Kentucky firms as distinguished from seed-capital financing by the level of risk and return associated with the investment[~~. If this program is created, the cabinet may contract for its administration with the Commonwealth venture fund~~];

(b) An applied research and development finance program to provide matching grants to Kentucky's industries and universities to conduct applied research of strategic importance to Kentucky's economy. If this program is created, the cabinet may contract for its administration with the Kentucky Science and Technology Council, Inc.;

(c) A government permitting and expediting program to assist businesses in expediting government permits and regulatory requirements;

(d) A surety bonding program to provide bonding assistance for small businesses in the form of education of the bonding process, bond waivers, and the creation of a bond fund;

(e) A Kentucky export authority to utilize the services of the Kentucky World Trade Center, university export trade programs, and export programs provided by other agencies within a context to provide financial assistance to Kentucky exporters through the financing of accounts receivable, letters of credit, and loan guarantees, and the use of commissioned sales agents in foreign countries;

(f) A flexible enterprise networks program to encourage and enable Kentucky firms to apply competitive management practices, modernize, and effectively compete in national and international markets;

(g) An economic response network to collect data on the needs of existing businesses in order to determine if a particular business or business sector is in trouble and about to fail or relocate, or is contemplating major expansion within Kentucky. The purpose of the program would be to assist the cabinet in developing responses to suit specific needs of Kentucky businesses and industries;

(h) A Kentucky technology service to integrate, broker, and deliver technology and related business services primarily to small- and medium-sized Kentucky firms. The service would fulfill its mission by brokering firms to the best possible existing public, private or university expert, by consulting directly with firms when no expert is available, and by coordinating seminars on technologies, management practices, and issues of competitive importance to Kentucky firms;

(i) A multimedia center to develop teleconference capabilities and other specialized marketing presentations for the use of state agencies and regional economic development centers and communities. The center would support Kentucky's marketing efforts, enhance the state's image of being progressive, and provide marketing and informational support to communities throughout the state;

(j) A community preparedness program to develop a list of criteria to identify those communities which are prepared to accommodate significant new or expanding businesses, to identify deficiencies of those communities which do not meet the criteria, and to provide assistance to those communities to eliminate their economic development deficiencies.

1. Areas in which criteria would be developed to identify communities' preparedness, would include, but not be limited to: infrastructure, site availability and conditions, environmental conditions, workforce, education, business and community support, housing, and health care.

2. Communities having deficiencies should meet the stated criteria through assistance from readily available

regional and local facilities and institutions; and

(k) A marketing assistance program to assess the resources of communities and to assist them in marketing and promotional efforts.

Section 22. The following KRS sections are repealed:

154.20-300	Short title for KRS 154.20-300 to 154.20-390.
154.20-305	Purposes of KRS 154.20-300 to 154.20-390.
154.20-310	Definitions for KRS 154.20-300 to 154.20-390.
154.20-320	Establishment and operation of fund.
154.20-330	Investment by entity not subject to taxes listed in KRS 154.20-310 and 154.20-360.
154.20-340	Investment tax credits -- Years -- Carryovers.
154.20-350	Maximum credits.
154.20-360	Application of tax credit.
154.20-370	Procedure to receive tax credit.
154.20-380	Loss of credit through early redemption.
154.20-390	Reporting requirements.

The Committee on Health and Welfare reported **HB 128**, with Committee Substitute attached thereto, **HB 255**, with Committee Substitute attached thereto, **HB 434**, with Committee Substitute attached thereto, **HB 618**, with Committee Substitute attached thereto, **HB 621**, **HB 677**, and **HB 679**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 128, AN ACT relating to charitable health care services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by this state or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in general practice medicine and performing no invasive or surgical procedures.

(2) "Regularly practice" means to practice for more than sixty (60) days within any ninety (90) day period.

(3) "Sponsoring organization" means any organization that organizes or arranges for the voluntary provision of health care services in the state.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the provisions of KRS Chapters 211, 216, 311, 312, 313, or 314 shall be necessary for the voluntary provision of health care services by any person who:

(a) Is a charitable health care provider as defined in Section 1 of this Act; or

(b) Lawfully practices under an exception to the licensure or certification requirements of any state, territory, district or possession of the United States, provided that the person shall not regularly practice in this state.

(2) The provisions of subsection (1) of this section shall not apply to any person whose license or certificate is suspended or revoked under disciplinary proceedings in any jurisdiction, or to any person who renders services outside of the scope of practice authorized by his or her licensure or certification, or exception to license or certification.

(3) Before providing charitable health care services in this state, a charitable health care provider or sponsoring organization shall register with the Cabinet for Human Resources by submitting a registration fee of fifty dollars ($50) and filing a registration form that shall contain the following information:

(a) The name, address, and phone number of the charitable health care provider;

(b) Written and verifiable documentation of a current license, certification, or exemption from licensure or certification, together with a sworn statement by the charitable health care provider that his or her license or certificate is not suspended or revoked under disciplinary proceedings in any jurisdiction;

(c) The name, principal office address, phone number, and principal officer of any sponsoring organization;

(d) The dates, locations, types of services, and intended recipients of any charitable health care services to be performed in the state;

(e) Information as to any medical malpractice insurance procured under Section 6 of this Act or otherwise; and

(f) Other information as the cabinet shall require by administrative regulation.

(4) The cabinet shall provide, upon request of the charitable health care provider or sponsoring organization, any information available as to medically underserved areas, potential health crises, underserved populations, and lack of access to health care in the state that will assist the charitable health care provider or sponsoring organization in the provision of these services.

(5) Within fifteen (15) days of any provision of charitable health care services in the state, the charitable health care provider or sponsoring organization shall file with the cabinet a charitable health care services report which shall contain the actual dates, locations, types of services, and recipients of any charitable health care services rendered in the state, along with a listing of all charitable health care providers participating in the provision of the health care services.

(6) Each sponsoring organization shall maintain a list of health care providers associated with its provision of charitable health care services. For each health care provider, the sponsoring organization shall maintain a copy of a current license, certificate, or statement of exemption from licensure or certification and shall require each health care provider to attest in writing that his or her license or certificate is not suspended or revoked under disciplinary proceedings in any jurisdiction. The sponsoring organization shall maintain its records of charitable health care providers for at least five (5) years after the provision of charitable health care services and shall furnish these records upon the request of the Cabinet for Human Resources. Compliance with this section shall be prima facie evidence that the sponsoring organization has exercised due care in selecting charitable health care providers.

(7) The cabinet may revoke the registration of any charitable health care provider or sponsoring organization for failure to comply with the provisions of Sections 1 to 5 of this Act, in accordance with the provisions of KRS Chapter 13B.

(8) The cabinet shall review the reports provided by the charitable health care providers and sponsoring organizations and provide an analysis to the General Assembly of the provision of charitable health care services in the state by October 1 of each year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

With regard to a person who provides charitable health care services under Section 2 of this Act, the provisions of KRS Chapters 211, 216, 311, 312, 313, or 314 shall not apply with respect to itinerant providers, licensing, or certification, and all requirements regarding display of a license or certification shall be satisfied by the presentation for inspection, upon request, of a photocopy of the applicable license, certificate, or statement of exemption from the state, territory, district or possession of the United States in which the provider is licensed, certified, or exempt.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth finds that access to high-quality health care services is a concern of all persons; that access to such services is limited for some residents of the Commonwealth, particularly those residing in remote rural areas or inner cities; that physicians and other health care providers have traditionally worked to assure access to health care services; and that many health care providers from the Commonwealth and other states are willing to volunteer their services to address the health care needs of Kentuckians who may otherwise not be able to obtain such services. Therefore, it is the purpose of Sections 1 to 5 of this Act to encourage and facilitate the charitable provision of health care services within the Commonwealth.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act may be cited as the Kentucky Charitable Health Care Services Act.

Section 6. KRS 304.40-075 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Charitable health care provider" means any person, agency, clinic, or facility licensed ***or certified*** by the Commonwealth, ***or under a comparable provision of law of another state, territory, district, or possession of the United States,*** engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in general practice medicine and performing no invasive or surgical procedures;

(b) "Medical malpractice insurer" means every person or entity engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts to provide medical professional liability insurance, except an entity in the business of providing such medical professional liability insurance only to itself or its affiliated subsidiary, or parent corporation, or subsidiaries of its parent corporations; and

(c) "Medical professional liability insurance" means insurance to cover liability incurred as a result of the hands-on providing of medical professional services directly to patients by an insured in the treatment, diagnosis, or prevention of patient illness, disease, or injury.

(2) Insurers offering medical professional liability insurance in the Commonwealth shall make available, as a condition of doing business in the Commonwealth pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.

(3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund ***and the registration fees collected by the Cabinet for Human Resources under subsection (3) of Section 2 of this Act*** upon written application for payment of the premium by the health care provider wishing to offer charitable services.

(b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:

1. Name and address of the charitable health care provider;

2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;

3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;~~[and]~~

4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed***; and***

5. A copy of the registration filed with the Cabinet for Human Resources under Section 2 of this Act.

(c) Persons insured under this section shall be required to comply with the same risk management and loss prevention policies which the insurer imposes upon its other insureds.

(4) This section shall only apply to charitable health care providers and persons volunteering to perform medical services for charitable health care providers who are not otherwise covered by any policy of medical professional liability insurance, and that meet the terms for eligibility established pursuant to this section.

(5) Coverage offered to charitable health care providers and persons volunteering at charitable health care providers shall be at least as broad as the coverage offered by the insurer to other noncharitable health care providers or facilities and to medical professionals working at noncharitable health care facilities.

(6) The Department of Insurance shall retrospectively review on an annual basis the premiums paid pursuant to this section as opposed to the expenses incurred by the insurers covering risks under this section to determine if the profits made for those risks were consistent with reasonable loss ratio guidelines. If the determination is made that the profits were not consistent with reasonable loss ratio guidelines, the Department of Insurance shall determine the amount of the premiums to be refunded to the Commonwealth.

(7) The Department of Insurance shall make available information on its registration of charitable health care providers for the purpose of obtaining medical malpractice insurance to the Cabinet for Human Resources.

(8) The Department of Insurance shall not provide medical malpractice insurance under this section to a charitable health care provider who has not registered with the Cabinet for Human Resources under Section 2 of this Act.

The Committee Substitute to **HB 128** is as follows:

AN ACT relating to charitable health care services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by this state or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in primary care and performing no invasive or surgical procedures.

(2) "Regularly practice" means to practice for more than sixty (60) days within any ninety (90) day period.

(3) "Sponsoring organization" means any organization that organizes or arranges for the voluntary provision of health care services in the state.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of law to the contrary, no additional license or certificate otherwise required under the provisions of KRS Chapters 211, 216, 311, 312, 313, or 314 except as required under subsection (3) of this section, shall be necessary for the voluntary provision of health care services by any person who:

  (a) Is a charitable health care provider as defined in Section 1 of this Act; or

  (b) Is affiliated with an organized clinical entity.

(2) The provisions of subsection (1) of this section shall not apply to any person whose license or certificate is suspended or revoked under disciplinary proceedings in any jurisdiction, or to any person who renders services outside of the scope of practice authorized by his or her licensure or certification, or exception to license or certification.

(3) Before providing charitable health care services in this state, a charitable health care provider or sponsoring organization shall register with the Cabinet for Human Resources by submitting a registration fee of fifty dollars ($50) and filing a registration form that shall contain the following information:

  (a) The name, address, and phone number of the charitable health care provider;

  (b) Written and verifiable documentation of a current Kentucky license;

  (c) The name, principal office address, phone number, and principal officer of any sponsoring organization;

  (d) The dates, locations, types of services, and intended recipients of any charitable health care services to be performed in the state;

  (e) Information as to any medical malpractice insurance procured under Section 6 of this Act or otherwise; and

  (f) Other information as the cabinet shall require by administrative regulation.

(4) The cabinet shall provide, upon request of the charitable health care provider or sponsoring organization, any information available as to declared emergencies, underserved populations, and lack of access to health care in the state that will assist the charitable health care provider or sponsoring organization in the provision of these services. Boards of health created under KRS Chapter 212 may submit requests for charitable health care providers in their jurisdictions to be listed in any information provided.

(5) Each sponsoring organization shall maintain a list of health care providers associated with its provision of charitable health care services. For each health care provider, the sponsoring organization shall maintain a copy of a current license, certificate, or statement of exemption from licensure or certification and shall require each health care provider to attest in writing that his or her license or certificate is not suspended or revoked under disciplinary proceedings in any jurisdiction. The sponsoring organization shall maintain its records of charitable health care providers for at least five (5) years after the provision of charitable health care services, including actual dates, types of services, and recipients of charitable health care services, and shall furnish these records upon the request of the Cabinet for Human Resources. Compliance with this section shall be prima facie evidence that the sponsoring organization has exercised due care in selecting charitable health care providers.

(6) The cabinet may revoke the registration of any charitable health care provider or sponsoring organization for failure to comply with the provisions of Sections 1 to 5 of this Act, in accordance with the provisions of KRS Chapter 13B.

(7) The cabinet shall report to the General Assembly the name and location of individuals registered with the cabinet as charitable health care providers, by October 1 of each year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

With regard to a person who provides charitable health care services under Section 2 of this Act, the provisions of KRS Chapters 211, 216, 311, 312, 313, or 314 shall not apply with respect to itinerant providers, licensing, or certification, and all requirements regarding display of a license or certification shall be satisfied by the presentation for inspection, upon request, of a photocopy of the applicable license, certificate, or statement of exemption from the state, territory, district or possession of the United States in which the provider is licensed, certified, or exempt.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth finds that access to high-quality health care services is a concern of all persons; that access to such services is limited for some residents of the Commonwealth, particularly those residing in remote rural areas or inner cities; that physicians and other health care providers have traditionally worked to assure access to health care services; and that many health care providers from the Commonwealth and other states are willing to volunteer their services to address the health care needs of Kentuckians who may otherwise not be able to obtain such services. Therefore, it is the purpose of Sections 1 to 5 of this Act to encourage and facilitate the charitable provision of

health care services within the Commonwealth.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act may be cited as the Kentucky Charitable Health Care Services Act.

Section 6. KRS 304.40-075 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Charitable health care provider" means any person, agency, clinic, or facility licensed ***or certified*** by the Commonwealth, ***or under a comparable provision of law of another state, territory, district, or possession of the United States,*** engaged in the rendering of medical care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in general practice medicine and performing no invasive or surgical procedures;

(b) "Medical malpractice insurer" means every person or entity engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts to provide medical professional liability insurance, except an entity in the business of providing such medical professional liability insurance only to itself or its affiliated subsidiary, or parent corporation, or subsidiaries of its parent corporations; and

(c) "Medical professional liability insurance" means insurance to cover liability incurred as a result of the hands-on providing of medical professional services directly to patients by an insured in the treatment, diagnosis, or prevention of patient illness, disease, or injury.

(2) Insurers offering medical professional liability insurance in the Commonwealth shall make available, as a condition of doing business in the Commonwealth pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.

(3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund ***and the registration fees collected by the Cabinet for Human Resources under subsection (3) of Section 2 of this Act*** upon written application for payment of the premium by the health care provider wishing to offer charitable services.

(b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:

1. Name and address of the charitable health care provider;

2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;

3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;[~~ and~~]

4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed***; and***

5. A copy of the registration filed with the Cabinet for Human Resources under Section 2 of this Act.

(c) Persons insured under this section shall be required to comply with the same risk management and loss prevention policies which the insurer imposes upon its other insureds.

(4) This section shall only apply to charitable health care providers and persons volunteering to perform medical services for charitable health care providers who are not otherwise covered by any policy of medical professional liability insurance, and that meet the terms for eligibility established pursuant to this section.

(5) Coverage offered to charitable health care providers and persons volunteering at charitable health care providers shall be at least as broad as the coverage offered by the insurer to other noncharitable health care providers or facilities and to medical professionals working at noncharitable health care facilities.

(6) The Department of Insurance shall retrospectively review on an annual basis the premiums paid pursuant to this section as opposed to the expenses incurred by the insurers covering risks under this section to determine if the profits made for those risks were consistent with reasonable loss ratio guidelines. If the determination is made that the profits were not consistent with reasonable loss ratio guidelines, the Department of Insurance shall determine the amount of the premiums to be refunded to the Commonwealth.

(7) The Department of Insurance shall make available information on its registration of charitable health care providers for the purpose of obtaining medical malpractice insurance to the Cabinet for Human Resources.

(8) The Department of Insurance shall not provide medical malpractice insurance under this section to a charitable

health care provider who has not registered with the Cabinet for Human Resources under Section 2 of this Act.

HB 255, AN ACT relating to children's health insurance and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds that:

(1) All citizens of the Commonwealth should have access to affordable health care; and

(2) It is estimated by the Legislative Research Commission that one hundred twenty-five thousand (125,000) children in the Commonwealth have no health insurance coverage; and

(3) Of the estimated one hundred twenty-five thousand (125,000) uninsured children in the Commonwealth, ninety-one thousand two hundred fifty (91,250) fall at or below two hundred percent (200%) of the federal poverty level; and

(4) Uninsured children are of particular concern because of their need for preventative and primary care to develop into healthy adulthood; and

(5) Measures not taken now to provide care for uninsured children will result in higher human and financial costs due to the development of more severe conditions; and

(6) Eligible children in this Commonwealth should have access to cost-effective, primary health care programs if they or their parents are unable to afford it on their own; and

(7) It is in the interest of the citizens of the Commonwealth for the General Assembly to foster the development of a children's health insurance program designed to provide basic services to eligible children at minimum cost.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

There is hereby created within the Cabinet for Human Resources the Kentucky Children's Health Insurance Program for the purposes of:

(1) Providing health care coverage and other coordinated services to children through the age of eighteen (18) years at or below two hundred percent (200%) of the federal poverty level and who are not otherwise eligible for health insurance coverage; and

(2) Expanding Medicaid coverage for children between the ages of fourteen (14) and eighteen (18) years up to one hundred percent (100%) of the federal poverty level.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the following:

(1) The eligibility criteria for children covered by the Children's Health Insurance Program. However, no person eligible for services under Title XIX of the Social Security Act 42 U.S.C. 1396 to 1396v as amended, shall be eligible for services under the Children's Health Insurance Program except to the extent that Title XIX coverage is expended by Sections 1 to 5 of this Act;

(2) The schedule of benefits to be covered by the Children's Health Insurance Program;

(3) The premium contribution per family or per child of health insurance coverage available under the Children's Health Insurance Program with provisions for the payment of premium contributions by families of children eligible for coverage by the program based upon a sliding scale relating to family income. Premium contributions and other cost sharing features shall not exceed those allowed by federal law;

(4) The appropriate level of copayments for services provided under the Children's Health Insurance Program. Copayments and other cost sharing features shall not exceed those allowed by federal law;

(5) The content, premium contributions, and copayments of riders to existing employer-sponsored health insurance policies which will provide for covered services for eligible children;

(6) The content of an incentive program for employer-sponsored health insurance programs for coverage of services offered under the Children's Health Insurance Program, including partial subsidies of employee contributions to employer-sponsored health insurance programs; and

(7) The criteria for health services providers and insurers wishing to contract with the Commonwealth to provide the children's health insurance coverage.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) A "Children's Health Insurance Program Trust Fund" shall be established for the purpose of receiving all appropriated funds, premiums, or other revenue received by the Children's Health Insurance Program to be used for the payment of costs and services associated with the administration of the program. Appropriations made to the

Children's Health Insurance Program trust fund shall not lapse at the end of a fiscal year but shall be carried forward in the trust fund account and shall be available for allotment for its particular purpose in the next fiscal year.

(2) The Children's Health Insurance trust fund may receive state appropriations, gifts, and grants, including federal funds. Any unallotted or unencumbered balances in the Children's Health Insurance Program trust fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the Children's Health Insurance Program trust fund account.

(3) The secretary of the Cabinet for Human Resources shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, provide for the administration of the trust fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act shall be known as the Kentucky Children's Health Insurance Program Act.

Section 6. Whereas it is critical to meet the needs of children not otherwise eligible for health care except through the opportunities presented by Title XXI of the Social Security Act and the Kentucky Children's Health Insurance Program, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 255** is as follows:

AN ACT relating to children's health insurance and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds that:

(1) All citizens of the Commonwealth should have access to affordable health care; and

(2) It is estimated by the Legislative Research Commission that one hundred twenty-five thousand (125,000) children in the Commonwealth have no health insurance coverage; and

(3) Of the estimated one hundred twenty-five thousand (125,000) uninsured children in the Commonwealth, ninety-one thousand two hundred fifty (91,250) fall at or below two hundred percent (200%) of the federal poverty level; and

(4) Uninsured children are of particular concern because of their need for preventative and primary care to develop into healthy adulthood; and

(5) Measures not taken now to provide care for uninsured children will result in higher human and financial costs due to the development of more severe conditions; and

(6) Eligible children in this Commonwealth should have access to cost-effective, primary health care programs if they or their parents are unable to afford it on their own; and

(7) It is in the interest of the citizens of the Commonwealth for the General Assembly to foster the development of a children's health insurance program designed to provide basic services to eligible children at minimum cost.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

There is hereby created within the Cabinet for Human Resources the Kentucky Children's Health Insurance Program for the purposes of:

(1) Providing health care coverage and other coordinated services procured pursuant to the Kentucky Model Procurement Act, KRS Chapter 45A, to children through the age of eighteen (18) years at or below two hundred percent (200%) of the federal poverty level and who are not otherwise eligible for health insurance coverage through either expansions of Medicaid services under Title XIX of the federal Social Security Act and through the provision of a separate health insurance program under Title XXI of the federal Social Security Act, or a combination of Medicaid program expansions and use of a separate health insurance program; and

(2) Expanding Medicaid coverage for children between the ages of fourteen (14) and eighteen (18) years up to one hundred percent (100%) of the federal poverty level.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the following:

(1) The eligibility criteria for children covered by the Children's Health Insurance Program. However, no person eligible for services under Title XIX of the Social Security Act 42 U.S.C. 1396 to 1396v as amended, shall be eligible for services under the Children's Health Insurance Program except to the extent that Title XIX coverage is expended by Sections 1 to 5 of this Act;

(2) The schedule of benefits to be covered by the Children's Health Insurance Program, which shall have a benefit package at least as comprehensive and no less than the benefit package provided under a standard high plan currently offered under the state health benefit plans;

(3) The schedule of benefits for preventive dental and dental services to be provided as an additional plan in those cases where a contractor under the Children's Health Insurance Program may be unable to offer dental services;

(4) The premium contribution per family or per child of health insurance coverage available under the Children's Health Insurance Program with provisions for the payment of premium contributions by families of children eligible for coverage by the program based upon a sliding scale relating to family income. Premium contributions and other cost sharing features shall not exceed those allowed by federal law;

(5) The appropriate level of copayments for services provided under the Children's Health Insurance Program. Copayments and other cost sharing features shall not exceed those allowed by federal law, except that no copayment amount or cost sharing feature shall be imposed on any dental service provided under any contractual arrangements that seek to implement the Children's Health Insurance Program;

(6) The content, premium contributions, and copayments of riders to existing employer-sponsored health insurance policies which will provide for covered services for eligible children;

(7) The content of an incentive program for employer-sponsored health insurance programs for coverage of services offered under the Children's Health Insurance Program, including partial subsidies of employee contributions to employer-sponsored health insurance programs;

(8) The criteria for health services providers and insurers wishing to contract with the Commonwealth to provide the children's health insurance coverage. However, the cabinet shall provide, in any contracting process for the preventive health insurance program, the opportunity for a public health department to bid on preventive health services to eligible children within the public health department's service area. A public health department shall not be disqualified from bidding because the department does not currently offer all the services required by the contracts;

(9) A system of outreach and referral for children who may be eligible for the Children's Health Insurance Program. The program shall work with the Department for Medicaid Services, the Department for Social Insurance, schools, pediatricians, public health departments, and other entities interested in the health of children in developing the system of outreach and referral;

(10) A system of data collection. The Children's Health Insurance Program shall collect, analyze, and publicly disseminate comprehensive data on the number of children enrolled in the program, services received through the program, and the effect on health outcomes of children served by the program. The information collected by the program shall be subject to KRS 216.2927(1). The program shall have access to all data collected by the cabinet under KRS 216.2920 to 216.2929 and shall coordinate program data collection efforts with the data collection efforts of the cabinet under KRS 216.2920 to 216.2929; and

(11) Recipients shall have direct access, without a referral from a gatekeeper primary care provider, to dentists for covered primary dental services and optometrists and ophthalmologists for covered primary eye and vision services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) A "Children's Health Insurance Program Trust Fund" shall be established for the purpose of receiving all appropriated funds, premiums, or other revenue received by the Children's Health Insurance Program to be used for the payment of costs and services associated with the administration of the program. Appropriations made to the Children's Health Insurance Program trust fund shall not lapse at the end of a fiscal year but shall be carried forward in the trust fund account and shall be available for allotment for its particular purpose in the next fiscal year.

(2) The Children's Health Insurance trust fund may receive state appropriations, gifts, and grants, including federal funds. Any unallotted or unencumbered balances in the Children's Health Insurance Program trust fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the Children's Health Insurance Program trust fund account.

(3) The secretary of the Cabinet for Human Resources shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, provide for the administration of the trust fund.

(4) In administering the Children's Health Insurance Program, the administrative costs under the program shall be limited to no more than ten percent (10%) of applicable program costs.

(5) Notwithstanding the provisions of KRS 205.6336, administering any savings from the implementation of the cabinet's managed care programs and using those savings to provide state matching funds for any enhanced federal funds available under Title XXI of the federal Social Security Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act shall be known as the Kentucky Children's Health Insurance Program Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

In any plan submitted for federal Title XXI approval of a children's health insurance program for Kentucky, the cabinet shall include provisions for a preventive health insurance program for children with no copayment, deductible, coinsurance or premium.

Section 7. Whereas it is critical to meet the needs of children not otherwise eligible for health care except through the opportunities presented by Title XXI of the Social Security Act and the Kentucky Children's Health Insurance Program, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 434, AN ACT relating to the provision of support services for low income parents in the process of achieving self-sufficiency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Secretary" means the secretary for human resources or his authorized representative;

(3) "Public assistance" means money grants, assistance in kind or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children, or persons with whom a needy child lives or a family containing a combination of these categories, except that the term shall not be construed to permit the granting of financial aid where the purpose of such aid is to obtain an abortion. For purposes of this section and KRS 205.560, "abortion" means an act, procedure, device, or prescription administered or prescribed for a pregnant woman by any person, including the pregnant woman herself producing premature expulsion of the fetus. Abortion does not include an induced premature birth intended to produce a live viable child;

(4) "Needy child" means a child who has been deprived of parental support by reasons prescribed by regulations within the scope of Title IV of the Social Security Act, its amendments, and federal regulations and who does not have otherwise provided for him a subsistence compatible with decency and health;

(5) "Parent", in addition to biological or adoptive parent, shall include stepparent;

(6) "Needy aged" means a person who has attained the age of sixty-five (65) and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(7) "Needy blind" means a person who has no vision or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(8) "Person with whom a needy child lives" means the individual prescribed by regulation, with whom such child is living in a place of residence maintained by such individual by himself or together with one (1) or more other persons;

(9) "Needy permanently and totally disabled" means a person eighteen (18) years of age or older and who has a permanent physical or mental impairment, disease, or loss that substantially precludes him from engaging in useful occupations within his competence and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(10) "Private institution" means any establishment or place other than a public institution operated or maintained by any individual, association, corporation, or other organization which provides a group living arrangement for four (4) or more individuals, who are cared for and maintained in residence for compensation or otherwise;

(11) "Public institution" means any establishment or place which is the responsibility of and administered by the state or any political subdivision thereof providing a group living arrangement in which one (1) or more individuals are cared for and maintained in residence;

(12) "Public medical institution" means any public institution the primary purpose of which is to furnish hospital care and medical treatment;

(13) "Person determined to be potentially responsible" means any person who:

  (a) Is not aged, blind, disabled, incapacitated, or needed in the home:

    1. Because of the illness or incapacity of a member of the family; or

    2. Because of children in the home under the age of six; or

  (b) Volunteers for such determination;

(14) As used in KRS 205.650 to 205.700, unless the context otherwise requires:

(a) "Community work experience program" shall mean a program to provide work experience and training for recipients of public assistance who are not otherwise able to obtain employment or who are not actively participating in training or education programs;

(b) "Designated geographic area" shall mean one (1) county or a portion of one (1) county selected by the secretary as the site of a community work experience program; and

(c) "Recipient" shall mean a person who currently receives benefits from public assistance;

(15) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(16) "Adult day-care center" means any adult care facility which provides part-time care, day or night, but less than twenty-four (24) hours, to at least four (4) adults not related to the operator of the adult care facility by blood, marriage, or adoption.

(17) "KEAP" means the Kentucky Educational Access for Parents program, providing educational assistance and supportive services for parents in low income families engaged in approved full-time post-secondary education and vocational training activities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall take all necessary actions to ensure that parents receiving public assistance may engage in educational and vocational programs where assessment shows their chances of achieving self-sufficiency will improve.

(2) The cabinet shall file an annual report with the Legislative Research Commission and the Interim Joint Committee on Health and Welfare documenting the results of the cabinet's efforts to enable parents receiving public assistance to participate in activities to achieve self-sufficiency, including activities established under the KEAP program in Section 3 of this Act. The report shall identify the number and proportion of parents, compared to the previous state fiscal year and the last full year of activity under the Job Opportunities and Basic Skills Program who:

(a) Participated in each type of educational, vocational training, or work activity, including post-secondary education;

(b) Successfully completed educational or vocational programs;

(c) Earned income due to work activity, including work study programs, while receiving public assistance;

(d) Became ineligible for public assistance due to increases in earnings; and

(e) Became ineligible for public assistance for other reasons, including but not limited to penalties or expiration of time limits.

(3) In the state public assistance program under Title IV-A of the Federal Social Security Act, the cabinet shall permit parents to attend basic, secondary, post-secondary, and vocational education programs where:

(a) The activity is countable toward federal work participation rates; or

(b) The activity is combined with work activity countable toward federal work participation rates; and

(c) The activity is made part of a self-sufficiency plan in which it will lead to achievement of a specific employment goal.

(4) The cabinet shall honor parents' requests to volunteer for educational activities as defined under subsection (3) of this section, by including educational activities in the self-sufficiency plan where:

(a) The parent meets admission criteria for the educational program; and

(b) The parent does not already have marketable skills sufficient to achieve at least two hundred percent (200%) of the federal poverty threshold, adjusted by household size.

(5) The cabinet shall honor parents' requests to continue current educational activities as defined under subsection (3) of this section, including self-initiated activities, where the parent is making good and satisfactory progress based on standards normally applied by the educational or vocational programs to enrollees.

(6) The cabinet shall make available for educational and vocational training activities, as defined in subsection (3) of this section, the same supportive services it provides for federally countable work activities, including child care, transportation, and other supportive services.

(7) The cabinet shall inform all parents receiving public assistance of the option to engage in educational and vocational training activities and receive supportive services under this section and under the KEAP program established in Section 3 of this Act:

(a) At least once per year, no less than six (6) weeks prior to the start of fall semester of the state university and community college system;

(b) During the initial and any subsequent self-sufficiency planning process;

(c) During conciliation in which the parent requests a change in placement; and

(d) At any time upon request of the parent.

(8) The time limit for support services for educational activities under this section shall be one and one-half (1-1/2) times the number of months of full-time attendance required to complete the targeted program, including remedial or other courses not related to a degree but required by the educational institution.

(9) Within the limit set forth in subsection (8) of this section, the cabinet shall allow discontinuous periods of educational program enrollment and receipt of supportive services in order to take into account family hardship and delay in the availability of required courses.

(10) All parents participating in post-secondary education programs under this section shall have an opportunity to apply for and transfer to the KEAP program established under Section 3 of this Act when their period of federally countable participation under subsection (3)(a) of this section ends. The cabinet shall transfer all parents who apply and who meet the guidelines of the KEAP program, subject to availability of KEAP funds as provided under subsection (16) of Section 3 of this Act.

(11) The cabinet shall not require a parent who is currently participating in an education program to discontinue participation and shall not discontinue supportive services for education under this section, except where:

(a) The parent is no longer making good or satisfactory progress;

(b) The parent fails to verify satisfactory attendance under standards normally applied by the educational program to enrollees;

(c) The parent in a noncountable education activity fails to participate in the additional required countable activity;

(d) The parent refuses an offer of employment paying at least two-hundred percent (200%) of the federal poverty threshold, adjusted for household size; or

(e) The parent becomes ineligible for public assistance for reasons unrelated to educational activity.

(12) The cabinet may require parents in post-secondary education activities under this section to participate up to twenty (20) hours a week in available paid work study programs connected with the post-secondary educational institution they attend. The cabinet shall develop standards for setting the number of required hours of work study under which:

(a) Qualifying parents may be excused from participation in work study based on special needs or outstanding achievement; and

(b) Parents in federally countable educational activities under subsection (3)(a) of this section may have the number of required work study hours reduced, at the option of the parent, by deducting four (4) hours for each course hour above ten (10) from the maximum of twenty (20) required work study hours.

(13) The cabinet shall develop criteria to identify parents for participation in combination programs, which shall include basic or secondary education and one (1) or more of the following activities:

(a) Substance abuse counseling;

(b) Mental health counseling;

(c) Vocational rehabilitation;

(d) Life skills, including parenting education programs; and

(e) Family preservation or other services provided by the Department for Social Services.

(14) The cabinet shall suspend counting of months toward the sixty (60) month lifetime limit for parents participating in combination programs under subsection (13) of this section by using only state maintenance of effort dollars for their case, for a period up to one (1) year or for the length of participation in the combination programs, whichever is shorter, except that the cabinet may use no more than twenty percent (20%) of total qualified state maintenance of effort expenditures, as defined in 42 U.S.C. 609(a)(7), for this purpose.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish a new program of assistance and supportive services for low income parents engaged full-time in approved post-secondary education and vocational training activities, to be known as the Kentucky Educational Access for Parents (KEAP) program. The program shall be separate from the public assistance program funded with federal block grant dollars under Title IV-A of the Federal Social Security Act, but shall be countable toward state maintenance of effort under 42 U.S.C. 609(a)(7).

(2) Eligibility for assistance under KEAP shall be the same as for parents caring for minor children in their household who meet the income and resource standards used in the public assistance program funded with federal block grant

dollars under Title IV-A of the Federal Social Security Act, except that the cabinet shall not require that children otherwise be deprived of parental support. In addition, the parent will be subject to admission criteria of the educational program selected. To the extent that program resources permit, a parent may enroll in KEAP if income and resource eligible and the assessment shows that:

(a) The parent does not possess the skills or experience necessary to obtain employment paying at least two hundred percent (200%) of the federal poverty threshold, adjusted for household size;

(b) Given potential employment opportunities and local labor market conditions, the post-secondary education sought by the parent will significantly improve the ability of the family to be self-supporting; and

(c) The parent has the aptitude to complete successfully the proposed post-secondary program, as determined under standards normally applied by the institution to the program participants.

(3) The cabinet may permit caretaker relatives other than parents to receive KEAP benefits under the same conditions of eligibility that apply to parents under this section. In no event may the cabinet limit participation in KEAP to parents or other caretaker relatives who previously received public assistance in the state program funded with federal dollars.

(4) The cabinet shall offer to KEAP parents the same supportive services provided to parents engaged in post-secondary education in the public assistance program funded with federal block grant dollars under Title IV-A of the Federal Social Security Act, including but not limited to child care, transportation, and other supportive services for school attendance, such as payment of testing or application fees.

(5) The cabinet shall inform parents of available medical assistance programs upon application, redetermination, and termination of eligibility for KEAP and shall take applications for medical assistance upon request. The cabinet shall not require a new application for medical assistance when a parent enters KEAP directly from the public assistance program funded with federal block grant dollars.

(6) KEAP parents shall receive the same cash assistance benefits for which they would be eligible under the public assistance program funded with federal block grant dollars, except that:

(a) A parent may elect to decline cash benefits and receive supportive services only; and

(b) The cabinet may require a parent eligible for KEAP to engage in available work study up to ten (10) hours a week at the state minimum wage or greater.

(7) Notwithstanding the requirements of subsection (6)(b) of this section, the Cabinet shall establish standards to allow qualifying parents to engage in education programs without requirement of additional activity. The program for these parents shall be part of KEAP for purposes of eligibility and benefits but the Parents as Scholars Program shall be the title. Standards for approval for the Parents as Scholars Program shall take into account:

(a) Special needs such as remote location, incapacity of the parent, a household member requiring the parent's care, or participation in remedial education activities; or

(b) Outstanding educational achievement or potential as evidenced by:

1. Performance in high school or GED programs;

2. College entry or standardized test results in the top twenty percent (20%); or

3. Current performance in the top twenty percent (20%) of students in the applicable program or institution or as evidenced by a grade point average of 3.0 on a 4.0 scale, or above.

(8) The cabinet shall refer parents for child support enforcement services where needed and treat child support received for a minor child in a KEAP household as unearned income that counts toward eligibility and any cash benefit for KEAP under the same rules as would apply in the public assistance program funded with federal block grant dollars under Title IV-A of the Federal Social Security Act .

(9) The cabinet shall not require a parent who is currently participating in KEAP to discontinue participation and shall not discontinue supportive services for education under this section, except where:

(a) The parent is no longer making good or satisfactory progress;

(b) The parent fails to verify satisfactory attendance under standards normally applied by the educational program to enrollees;

(c) The parent fails to participate in required work study under subsection (6)(b) of this section;

(d) The parent refuses a bona fide offer of employment at a level of at least two hundred percent (200%) of the federal poverty threshold, adjusted for family size; or

(e) The parent becomes ineligible for KEAP for reasons unrelated to educational activity.

(10) In submitting reports to the federal agency, the cabinet shall request that any parents who transfer to KEAP from the public assistance program under the Federal Social Security Act and who elect not to receive cash assistance

under KEAP shall count as caseload reduction toward required state work participation rates.

(11) KEAP assistance shall be available for parents attending full-time:

(a) Post-secondary undergraduate associate and baccalaureate degree-granting programs; and

(b) State or federally funded post-secondary vocational programs which do not require an associate or baccalaureate degree as a condition of enrollment, or equivalent privately-operated programs approved by the cabinet.

(12) KEAP assistance shall be limited to one and one-half (1-1/2) times the number of months of full-time attendance required to complete a targeted degree or vocational program, including remedial or other courses not related to the degree or vocational program but required by the educational institution, up to a cumulative lifetime limit of no more than seventy-two (72) months.

(13) Within the time limit set forth in subsection (12) of this section, an otherwise eligible parent who successfully completes a vocational degree under KEAP may receive KEAP assistance while seeking a undergraduate degree, and an otherwise eligible parent who successfully completes an associate degree may receive KEAP assistance while seeking a baccalaureate degree. KEAP assistance shall not be available for a level of undergraduate degree already completed by the parent.

(14) The cabinet shall set standards to allow discontinuous periods of enrollment leading to completion of a targeted degree program, in order to take into account family hardship or delay in the availability of required courses.

(15) Months of participation in KEAP shall be separate from and shall not count toward lifetime limits for public assistance under Title IV-A of the Federal Social Security Act.

(16) The cabinet shall not require an appropriation for KEAP, but shall earmark for the KEAP program up to twenty-five percent (25%) of dollars expended as state maintenance of effort dollars as defined under 42 U.S.C. 609 (a)(7). Within this limitation, the cabinet shall allow total participation in post-secondary education, when combined with post-secondary educational activity in the public assistance program funded with federal block grant dollars under Title IV-A of the Federal Social Security Act up to the lesser of:

(a) Five thousand (5,000) parents;

(b) The same percentage of parents who participated in post-secondary education in an average month under the Job Opportunities and Basic Skills Program in state fiscal year 1994-95.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall undertake a joint planning process with appropriate state, local, and private education institutions, interested agencies, and citizens to ensure that opportunities for low income parents to continue or improve their education shall continue with the implementation of the public assistance program funded by federal block grant dollars under Title IV-A of the Federal Social Security Act, 42 U.S.C. 602, et seq. To this end, by July 31, 1998, the cabinet shall convene and provide staff services for an advisory group of interested parties to evaluate opportunities and strategies and make recommendations for continued participation by low income parents in education activities, including but not limited to representatives of:

(a) The state university system;

(b) The state community college system;

(c) Private colleges and universities;

(d) State vocational and technical schools;

(e) The Kentucky Higher Education Assistance Authority;

(f) Basic and secondary education programs, including literacy, adult basic education, GED, and high school programs;

(g) Advocacy and citizens groups representing low income parents, including low income parents in sufficient number to represent at least one quarter (1/4) of the total group;

(h) Providers of child care and other supportive services; and

(i) Two (2) members each from the Senate, as appointed by the President of the Senate, and the House of Representatives, as appointed by the Speaker of the House.

(2) The cabinet shall prepare a strategic plan for continuation of education opportunities for low income parents, based on the recommendations of the advisory group. The cabinet shall submit the plan to the Legislative Research Commission and the Interim Joint Committee on Health and Welfare no later than July 31, 1999. At a minimum, the plan shall set forth strategies, including any funding necessary, to:

(a) Create work study opportunities at least ten (10) hours a week for at least two thousand (2,000) parents in addition to the number of funded slots available as of January 1, 1998; and

(b) Increase the supply of child care available at or closely connected with educational activities, with an emphasis on post-secondary education.

Section 5. The following KRS section is repealed:

205.2002 Education or training or employment of adults in families with dependent children -- Goals for cabinet -- Sanctions for noncompliance -- Report to General Assembly.

The Committee Substitute to **HB 434** is as follows:

AN ACT relating to the provision of support services for low income parents in the process of achieving self-sufficiency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall take all necessary actions to ensure that parents receiving public assistance may engage in educational and vocational programs where assessment shows their chances of achieving self-sufficiency will improve.

(2) The cabinet shall file quarterly progress reports and an annual report with the Legislative Research Commission and the Interim Joint Committee on Health and Welfare documenting the results of the cabinet's efforts to enable parents receiving public assistance to participate in activities to achieve self-sufficiency. The annual report shall identify the number and proportion of parents, compared to the previous state fiscal year and the last full year of activity under the Job Opportunities and Basic Skills Program who:

(a) Participated in each type of educational, vocational training, or work activity, including post-secondary education;

(b) Successfully completed educational or vocational programs;

(c) Earned income due to work activity, including work study programs, while receiving public assistance;

(d) Became ineligible for public assistance due to increases in earnings; and

(e) Became ineligible for public assistance for other reasons, including but not limited to penalties or expiration of time limits.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall honor parents' requests to volunteer for basic, secondary, post-secondary, and vocational education programs, including work study and internships; where:

(a) The activity is:

1. Countable toward federal work participation rates; or

2. Combined with work activity countable toward federal work participation rates;

(b) The activity is made part of a self-sufficiency plan in which it will lead to achievement of a specific employment goal;

(c) The parent meets admission criteria for the educational program; and

(d) The parent does not already have marketable skills sufficient to achieve at least two hundred percent (200%) of the federal poverty threshold, adjusted by household size.

(2) The cabinet shall honor parents' requests to continue current educational activities as defined under subsection (1) of this section, where the parent is making good and satisfactory progress based on standards normally applied by the educational or vocational programs to enrollees.

(3) The cabinet shall inform all parents receiving public assistance of the option to engage in educational and vocational training activities, as defined under subsection (1) of this section, and receive supportive services:

(a) At least once per year, no less than six (6) weeks prior to the start of fall semester of the state university and community college system;

(b) During the initial and any subsequent self-sufficiency planning process;

(c) During conciliation in which the parent requests a change in placement; and

(d) At any time upon request of the parent.

(4) The cabinet shall not require a parent who is currently participating in an education program to discontinue participation and shall not discontinue supportive services for education under subsection (1) of this section, except where:

(a) The parent is no longer making good or satisfactory progress;

(b) The parent fails to verify satisfactory attendance under standards normally applied by the educational program to enrollees;

(c) The parent in a noncountable education activity fails to participate in the additional required countable activity;

(d) The parent refuses an offer of employment paying at least two-hundred percent (200%) of the federal poverty threshold, adjusted for household size; or

(e) The parent becomes ineligible for public assistance for reasons unrelated to educational activity.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall undertake a joint planning process with appropriate state, local, and private education institutions, interested agencies, and citizens to ensure that opportunities for low income parents to continue or improve their education shall continue with the implementation of the public assistance program funded by federal block grant dollars under Title IV-A of the Federal Social Security Act, 42 U.S.C. sec. 602, et seq. To this end, by July 31, 1998, the cabinet shall convene and provide staff services for an advisory group of interested parties to evaluate opportunities and strategies and make recommendations for continued participation by low income parents in education activities, including but not limited to representatives of:

(a) The state university system;

(b) The state community college system;

(c) Private colleges and universities;

(d) State vocational and technical schools;

(e) The Kentucky Higher Education Assistance Authority;

(f) Basic and secondary education programs, including literacy, adult basic education, GED, and high school programs;

(g) Advocacy and citizens groups representing low income parents, including low income parents in sufficient number to represent at least one quarter (1/4) of the total group;

(h) Providers of child care and other supportive services; and

(i) Two (2) members each from the Senate, as appointed by the President of the Senate, and the House of Representatives, as appointed by the Speaker of the House.

(2) The cabinet shall prepare a strategic plan for continuation of education opportunities for low income parents, based on the recommendations of the advisory group. The cabinet shall submit the plan to the Legislative Research Commission and the Interim Joint Committee on Health and Welfare no later than July 31, 1999. At a minimum, the plan shall set forth strategies, including any funding necessary, to:

(a) Create work study opportunities; and

(b) Increase the access to child care funding.

HB 618, AN ACT relating to health insurance coverage for cancer drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) The term "secretary" means the secretary of the Cabinet for Human Resources;

(2) The term "cabinet" means the Cabinet for Human Resources or its designee;

(3) The term "person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity;

(4) The term "food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(5) The term "drug" means:

(a) Articles recognized in the official United States Pharmacopoeia ***Drug Information***, official homeopathic pharmacopoeia of the United States, *American Hospital Formulary Service Drug Information,*[~~or~~] official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(6) The term "device", except when used in subsection (12) of this section and in subsection (10) of KRS 217.175, subsection (6) of KRS 217.035, subsection (3) of KRS 217.065, and subsection (3) of KRS 217.095, means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(7) The term "cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of any such articles, except that such term shall not include soap;

(8) The term "official compendium" means the official United States Pharmacopoeia ***Drug Information***, official homeopathic pharmacopoeia of the United States, ***American Hospital Formulary Service Drug Information***, official national formulary, or any supplement to any of them;

(9) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(10) The term "immediate container" shall not include package liners;

(11) The term "labeling" means all labels and other written, printed or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(12) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(13) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(14) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(15) The term "new drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(16) The term "contaminated with filth" shall apply to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations;

(17) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment;

(18) The term "federal act" means the federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.; 52 Stat. 1040 et seq.,

or amendments thereto);

(19) The term "flour" shall include and be limited to the foods, commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(20) The term "enriched" as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of "enriched" flour as defined under the federal act;

(21) The terms "bread" and "enriched bread" shall include, and be limited to, the foods commonly known and described as "white bread," "white rolls," "white buns," "enriched white bread," "enriched rolls," and "enriched white buns," as defined under the federal act;

(22) The term "filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition shall not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(23) The term "practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices; it shall also include optometrists when administering or prescribing pharmaceutical agents authorized in subsections (13), (14), and (15) of KRS 320.240, and advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042;

(24) The term "prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(25) The term "Meat Inspection Act" means the federal Meat Inspection Act (21 U.S.C. Sec. 71 et seq.; 34 Stat. 1260 et seq., including any amendments thereto);

(26) The term "Poultry Products Inspection Act" means the federal Poultry and Poultry Products Inspection Act; 21 U.S.C. Sec. 451 et seq.; Public Law 85-172; 71 Stat. 441, including any amendments thereto;

(27) The term "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. Sec. 1451 et seq., and all amendments thereto;

(28) The term "pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of the federal Insecticide, Fungicide and Rodenticide Act and subsequent amendments thereto, and which is used in the production, storage, or transportation of raw agricultural commodities;

(29) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(30) The term "food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity; or

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Meat Inspection Act of 1907 and subsequent amendments thereto;

(31) (a) The term "color additive" means a material which:

1. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or
2. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with other substance, of imparting color thereto; except that the term shall not include any material which has been or hereafter is exempted under the federal act;

(b) The term "color" shall include, but not be limited to black, white, and intermediate grays;

(c) Nothing in paragraph (a)1. of this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(32) The term "Environmental Pesticide Control Act of 1972" means the federal Environmental Pesticide Control Act of 1972, Public Law 92-516, and all amendments thereto;

(33) The term "retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(34) The term "food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It shall not include food vending machines, establishments serving beverages only in single service or original containers or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(35) The term "temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(36) The term "retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but shall not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(37) The term "salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(38) The term "salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(39) The term "food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but shall not include retail food establishments; and

(40) The term "food storage warehouse" means any establishment in which food is stored for subsequent distribution.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "medical literature" means published scientific studies published in any peer-reviewed national professional journal.

(2) All health benefit plans issued or renewed on or after the effective date of this Act shall not exclude coverage of any cancer drug for a particular indication on the grounds that the drug has not been approved by the Federal Food and Drug Administration for that indication, if the drug is recognized for the treatment of the indication in the official compendium as defined in subsection (8) of Section 1 of this Act or in the medical literature.

(3) Any coverage of a cancer drug required by this section shall also include medically necessary services associated

with the administration of this drug.

(4) This section shall not be construed to alter existing law with regard to provisions limiting the coverage of drugs that have not been approved by the Federal Food and Drug Administration.

(5) This section shall not be construed to require coverage for any drug when the Federal Food and Drug Administration has determined its use to be contra-indicated.

(6) This section shall not be construed to require coverage for experimental drugs not otherwise approved for any indication by the Federal Food and Drug Administration.

(7) The commissioner of the Department of Insurance shall create a panel of seven (7) medical experts to review off-label uses not included in any of the official compendia as defined in subsection (8) of Section 1 of this Act or in the medical literature and to advise the commissioner whether a particular off-label use is medically appropriate. The panel shall make recommendations to the commissioner from time to time and whenever there is a particular dispute about payment under this section for the off-label drug use. The seven (7) member panel, appointed by the Kentucky Medical Association, shall include:

(a) Three (3) medical oncologists;

(b) Two (2) specialists in the management of acquired immunodeficiency syndrome;

(c) One (1) specialist in heart disease; and

(d) One (1) physician.

(8) The commissioner shall have the authority to direct any person or agency which issues an insurance policy to make payments required by this section.

The Committee Substitute to **HB 618** is as follows:

AN ACT relating to health insurance coverage for cancer drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "medical literature" means the official United States Pharmacopoeia Drug Information, the American Hospital Formulary Service Information, or published scientific studies published in any peer-reviewed national professional journal.

(2) All health benefit plans issued or renewed on or after the effective date of this Act shall not exclude coverage of any cancer drug for a particular indication on the grounds that the drug has not been approved by the Federal Food and Drug Administration for that indication, if the drug is recognized for the treatment of the indication in the official compendium as defined in subsection (8) of Section 1 of this Act or in the medical literature.

(3) Any coverage of a cancer drug required by this section shall also include medically necessary services associated with the administration of this drug.

(4) This section shall not be construed to alter existing law with regard to provisions limiting the coverage of drugs that have not been approved by the Federal Food and Drug Administration.

(5) This section shall not be construed to require coverage for any drug when the Federal Food and Drug Administration has determined its use to be contra-indicated.

(6) This section shall not be construed to require coverage for experimental drugs not otherwise approved for any indication by the Federal Food and Drug Administration.

(7) The commissioner of the Department of Insurance shall create a panel of five (5) medical experts to review off-label uses not included in any of the official compendia as defined in subsection (8) of Section 1 of this Act or in the medical literature and to advise the commissioner whether a particular off-label use is medically appropriate. The panel shall make recommendations to the commissioner from time to time and whenever there is a particular dispute about payment under this section for the off-label drug use. The five (5) member panel, appointed by the Kentucky Medical Association, shall include:

(a) Three (3) medical oncologists; and

(b) Two (2) physicians.

(8) The commissioner shall have the authority to direct any person or agency which issues an insurance policy to make payments required by this section.

HB 621, AN ACT relating to long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Long-term care facilities as defined in KRS 216.510 shall not be operated by or employ any person who is listed on the nurse aide abuse registry required by 42 CFR 483.156.

HB 677, AN ACT relating to reimbursement of nonprofit child-caring and child-placing facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context otherwise requires:

(1) "Agency" means a child-caring facility, a child-placing facility, or an emergency shelter;

(2) "Allowable costs" means all allowable costs as defined by the Federal Office of Management and Budget circular A-122, "Cost Principles for Nonprofit Organizations," utilizing cost data from the child-caring facility's most recent yearly submitted cost report;

(3) "Child-placing facility" means a child-placing agency as defined in KRS 199.011;

(4) "Cost per weighted case mix unit" means the part of the reimbursement formula that is determined by dividing the cost per day by the weighted case mix unit;

(5) "Cost reporting period" means the child-caring or child-placing facility's fiscal year;

(6) "Emergency shelter" means an emergency shelter as defined in KRS 600.020;

(7) "Levels of care" means a placement classification and reimbursement system based on the treatment needs of a child in care with the following specific levels:

(a) Level I applies to children who require a routine home environment that provides maintenance, guidance, and supervision and that ensures the emotional and physical well-being of the children;

(b) Level II applies to children who may engage in nonviolent antisocial acts and require supervision in a structured environment with counseling and educational support available and services designed to improve developmental or normalized social skills;

(c) Level III applies to children who may engage in occasional violent acts and require supervision in a structured, supportive environment where levels of supervision may vary from low to high to maintain the least restrictive environment and require a program designed to allow both extended trials of independence and periods of corrective and protective structure;

(d) Level IV applies to children who may be at moderate risk of causing harm to themselves or others and require a structured, supportive environment with therapeutic counseling available by professional staff and physical, environmental, and treatment programs designed to improve adaptive behavior;

(e) Level V applies to children who may have severe and chronic medical conditions complicated by behavioral disorders or emotional disturbances and require a highly structured environment with twenty-four (24) hour supervision and specialized treatment capable of meeting the children's needs; and

(f) Level VI applies to children who exceed the treatment needs of children assigned Level V and may be aggressive or extremely disruptive and require twenty-four (24) hour supervision and frequent one-to-one supervision, or they have complicated medical conditions and require frequent monitoring by a nurse or physician.

(8) "Multiplier for levels of care" means the percent of care that is required to care for a resident and that is expressed as a percentage of a base level of care unit of three (3.00), where one (1.00) equals forty-five percent (45%), two (2.00) equals sixty-five percent (65%), three (3.00) equals one hundred percent (100%), four (4.00) equals one hundred thirty-five percent (135%), five (5.00) equals one hundred eighty percent (180%), and six (6.00) equals two hundred thirty-five percent (235%);

(9) "Weighted case mix unit" means the weighted average acuity of the children served by agency by program during the cost reporting period each year and is determined by assuming that a weighted level of care unit of three (3.00) equals a weighted case mix unit of one (1.00) interpolating the actual weighted case mix unit based on the multiplier for levels of care; and

(10) "Weighted level of care unit" means the weighted average level of care for children served by agency by program during the cost reporting period and is determined by the total number of days that children were in residence for each level multiplied by the level of care. This total is divided by the total number of days that children were in

residence for each agency and each program of the agency. Level I receives a weight of 1.00, Level II receives a weight of 2.00, Level III receives a weight of 3.00, Level IV receives a weight of 4.00, Level V receives a weight of 5.00, and Level VI receives a weight of 6.00.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The daily base rate-setting formula as specified in subsection (2) of this section shall be used to establish daily rates of reimbursement for residential, community-based, or in-home services and any other services provided by nonprofit child-caring or child-placing facilities and emergency shelters.

(2) To determine the daily base rate of reimbursement, the cabinet shall:

(a) Calculate the weighted level of care unit for each program of the agency;

(b) Convert the weighted level of care unit to a weighted case mix unit for each program of the agency;

(c) Add the allowable cost per weighted case mix unit for all categories contained on the cost reports, excluding allowable capital costs for each program of the agency, giving a total cost per weighted case mix unit for each category;

(d) Trend and index the costs per weighted case mix unit for all cost categories, excluding capital costs, to the beginning of the rate-setting year using the inflation factor based on the Data Resources Incorporated (DRI) index;

(e) Determine the statewide weighted case mix unit median for each cost category, excluding allowable capital costs;

(f) Multiply the weighted case mix unit median of all cost categories, excluding room and board and allowable capital costs, by one hundred fifteen percent (115%) of the median, giving a daily base rate for categories, excluding room and board and capital costs;

(g) Multiply the weighted case mix unit median for room and board by one hundred five percent (105%), giving a daily base rate for room and board;

(h) Add totals from subparagraphs (f) and (g) of this subsection to establish the base rate excluding capital costs, and apply the multiplier for levels of care, giving a daily base rate excluding capital costs;

(i) Calculate the statewide median capital costs per day of service, then multiply by one hundred two percent (102%), giving a daily base rate for capital costs; and

(j) Add totals from subparagraphs (h) and (i) of this subsection to establish the daily base rate of reimbursement.

(3) Rates shall be determined by the cabinet from the cost reports of the agencies most recent cost reporting period submitted to the cabinet prior to May 1 of each year.

(a) Rate setting shall be performed during the month of May by the cabinet, and calculations to determine rates shall be provided to interested parties for review and comment prior to June 1 of each year;

(b) Comments from interested parties shall be submitted to the cabinet by June 15 each year; and

(c) The cabinet shall respond by June 30 each year to the comments received each year.

(4) New rates shall be effective on July 1 of each state fiscal year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) Every child placed in a nonprofit child-caring, child-placing, or an emergency treatment facility by the cabinet shall be assigned one (1) of six (6) levels of care as defined in Section 1 of this Act, with the exceptions noted in subsections (3) and (4) of this section.

(2) Reimbursement for each level shall be based on the following:

(a) The reimbursement rate for children assigned Level I shall be forty-five percent (45%) of the daily base rate;

(b) The reimbursement rate for children assigned Level II shall be sixty-five percent (65%) of the daily base rate;

(c) The reimbursement rate for children assigned Level III shall be one hundred percent (100%) of the daily base rate;

(d) The reimbursement rate for children assigned Level IV shall be one hundred thirty-five percent (135%) of the daily base rate;

(e) The reimbursement rate for children assigned Level V shall be one hundred eighty percent (180%) of the daily base rate; and

(f) The reimbursement rate for children assigned Level VI shall be two hundred thirty-five percent (235%) of the daily base rate.

(3) Child-caring licensed emergency shelter placement shall be paid at Level III for the first thirty (30) days of placement.

(a) For a child-caring licensed emergency shelter with a youth treatment license, after thirty (30) days of placement the rate shall be consistent with the child's level assignment but not less than the Level III rate for the duration of the child's stay; and

(b) For child-caring licensed emergency shelters without a youth treatment license, the rate shall be Level III for children assigned Level I, II, or III. Any child assigned Level IV or higher shall be moved to an appropriate licensed youth treatment facility.

(4) Reimbursement for a child placed in private foster care by a nonprofit child-placing facility shall be set at eighty percent (80%) of the reimbursement rate for the level assigned to each child.

SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet is encouraged to develop pilot projects both within the state system and in collaboration with private child-caring agencies to test alternative delivery systems and nontraditional funding mechanisms based on the rate-setting formula specified in Section 2 of this Act. Pilot projects may include but are not limited to continuum-of-care contracting.

(2) The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of Sections 1 to 4 of this Act.

Section 5. The following KRS section is repealed:

199.641 Definitions -- Reimbursement of nonprofit child-caring facility.

HB 679, AN ACT relating to long-term care facility reform.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.530 is amended to read as follows:

All[~~ annual~~] inspections of long-term care facilities performed by the cabinet shall be unannounced. All[~~ unannounced annual~~] inspections of long-term care facilities shall be conducted in accordance with the rules and regulations promulgated by the cabinet ***in accordance with KRS Chapter 13A*** setting forth the parameters of such inspections. ***Except for complaint investigations, inspections shall be performed no later than seven (7) to fifteen (15) months after the previous inspection.***

Section 2. KRS 216.543 is amended to read as follows:

(1) Every long-term care facility shall post in a conspicuous place, accessible to residents, employees and visitors the following:

(a)[~~(1)~~] A copy of the long-term care facility's current license;

(b)[~~(2)~~] The name, address, and current telephone number of the current long-term care ombudsman in the cabinet;

(c)[~~(3)~~]A copy of the statement required by subsection (1) of KRS 216.545; ***and***

(d)[~~(4)~~] A list of the material available for public inspection required by KRS 216.547[~~; and~~

~~(5) The current rating assigned to the facility by the cabinet~~].

(2) Every long-term care facility shall post within ten (10) feet of the front reception desk and in a prominent place easily seen by residents, employees, and visitors a printed sign at least eight (8) inches by eleven (11) inches in size, with letters at least one (1) inch high, that states: "State law (KRS 216.547) requires state inspection reports on this facility to be made available to you upon request. ASK A REPRESENTATIVE OF THIS FACILITY."

Section 3. KRS 216.547 is amended to read as follows:

(1) All long-term care facilities shall retain the following for public inspection in the office of the administrator and in the lobby of the facility:

(a) A complete copy of every inspection report of the facility received from the cabinet during the past three (3) years, including the most recent inspection report;

(b) A description of the services currently provided by the facility;

(c) A listing of the rates currently charged for services provided by the facility;

(d) A listing together with the charges for the services and items not included in the basic rate for which residents may be charged separately; and

(e) A copy of every court order issued pertaining to the quality of care or services provided in the facility.

(2) ***The Office of the Inspector General shall be responsible for providing public notice of results of licensure***

inspections of long-term care facilities and shall issue administrative regulations in accordance with KRS Chapter 13A to carry this out. Any licensure result that has not become final shall not be subject to release for public notice until the result becomes final. Nothing in this section shall be construed to limit access to public records otherwise allowed pursuant to the provisions of KRS 61.872 to 61.884.

Section 4. KRS 216.789 is amended to read as follows:

(1) No ***long-term care facility as defined by KRS 216.535(1)***[~~nursing facility~~] shall knowingly employ a person in a position which involves providing direct services to a[~~ nursing facility~~] resident if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime.

(2) A facility may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor if the crime is not related to abuse, neglect, or exploitation of an adult.

(3) Each ***long-term care facility as defined by KRS 216.535(1)***[~~nursing facility~~] shall request all conviction information from the Justice Cabinet for any applicant for employment pursuant to KRS 216.793.

(4) The[~~ nursing facility~~] may temporarily employ an applicant pending the receipt of the conviction information.

Section 5. KRS 216.555 is amended to read as follows:

If upon inspection or investigation the cabinet determines that a long-term care facility has violated the regulations, standards, and requirements as set forth by the cabinet pursuant to[~~ KRS 216.550 or~~] the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act and such violation has been classified in KRS 216.557, the cabinet shall immediately issue a citation to the licensee of the long-term care facility. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, and the statutory provision or regulation alleged to have been violated.

Section 6. KRS 216.557 is amended to read as follows:

Citations issued pursuant to KRS 216.537 to 216.590 shall be classified according to the nature of the violation as follows:

(1) Type "A" violation means a violation by a long-term care facility of the regulation, standards, and requirements as set forth by the cabinet pursuant to KRS[~~ 216.550 and~~] 216.563[~~,~~] or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents an imminent danger to any resident of a long-term care facility and creates substantial risk that death or serious mental or physical harm to a resident will occur. A Type A violation shall be abated or eliminated immediately, unless a fixed period of time not to exceed ten (10) days, as determined by the cabinet, is required for correction. A Type A violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each and every violation.

(2) Type "B" violation means a violation by a long-term care facility of the regulations, standards and requirements as set forth by the cabinet pursuant to KRS[~~ 216.550 and~~] 216.563[~~,~~] or the provisions of KRS 216.510 to 216.525, or applicable federal laws.and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents a direct or immediate relationship to the health, safety or security of any resident, but which does not create an imminent danger. A Type B violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each and every violation. A citation for a Type B violation shall specify the time within which the violation is required to be corrected as approved or determined by the cabinet. If a Type B violation is corrected within the time specified, no civil penalty shall be imposed.

Section 7. KRS 216.865 is amended to read as follows:

(1) No nursing pool shall be operated, maintained, or advertised without obtaining a license as provided in this section.

(2) The secretary shall adopt administrative regulations relating to license fees, standards of care and service, and procedures for enforcement of penalties.

(3) The established standards of care and services shall at a minimum include:

(a) Written policies and procedures which must be maintained by each nursing pool;

(b) Records which must be maintained to assure that the criteria promulgated by administrative regulations are being met;

(c) Personnel policies which shall be developed and which shall include at a minimum: a personal interview, thorough reference check, annual evaluation of employees based on questionnaires developed and sent to hospitals, nursing homes, and other facilities to which medical personnel are sent.

(4) Upon employment or contract with a nursing pool, all medical personnel working in health care facilities shall be required to provide the following: a current negative tuberculin skin test or chest X-ray, a current license or certificate, where applicable, and a current cardiopulmonary resuscitation certification. Further, all medical personnel shall attend an annual infection control in-service and an annual safety in-service.

(5) Only those nursing pools meeting the standards prescribed for licensure by the secretary may be granted a license.

(6) Each application for a license shall be made to the Division of Licensing and Regulation and shall be accompanied by a fee prescribed by the secretary and shall be renewed annually upon expiration and reapplication when accompanied by an additional fee. Licenses and renewals thereof shall expire one (1) year from their effective date.

(7) Any license or application affected by an adverse determination by the division or the secretary shall have the same rights of appeal as set forth in KRS[~~ 216.553 and~~] 216.567.

(8) All fees collected under the provisions of this section shall be paid into the State Treasury and credited to a fund for the purposes of funding the division.

(9) All inspections of nursing pools by the division shall be unannounced.

Section 8. KRS 216.560 is amended to read as follows:

(1) If a licensee has failed to correct a Type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(2) If a licensee has failed to correct a Type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation ***for*** which it has received a citation[~~ for and paid a fine for~~] during the previous twelve (12) months.

(4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare..

(5) KRS 216B.990(3) shall not apply to the offenses defined herein.

(6) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in the Kentucky nursing incentive scholarship fund, which is hereby created, and the balance of that fund shall not lapse at the end of the fiscal year to the general fund.

Section 9. The following KRS sections are repealed:

216.550 Cabinet rating system -- Evaluation -- Possible ratings defined -- Change of rating.

216.553 Appeal of assignment of a particular rating.

The Committee Substitute to **HB 679** is as follows:

AN ACT relating to long-term care facility reform.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.530 is amended to read as follows:

All[~~ annual~~] inspections of long-term care facilities performed by the cabinet shall be unannounced. All[~~ unannounced annual~~] inspections of long-term care facilities shall be conducted in accordance with the rules and regulations promulgated by the cabinet ***in accordance with KRS Chapter 13A*** setting forth the parameters of such inspections. ***Except for complaint investigations, inspections shall be performed no later than seven (7) to fifteen (15) months after the previous inspection.***

Section 2. KRS 216.543 is amended to read as follows:

(1) Every long-term care facility shall post in a conspicuous place, accessible to residents, employees and visitors the following:

(a)[~~(1)~~] A copy of the long-term care facility's current license;

(b)[~~(2)~~] The name, address, and current telephone number of the current long-term care ombudsman in the cabinet;

(c)[~~(3)~~]A copy of the statement required by subsection (1) of KRS 216.545; ***and***

(d)[~~(4)~~] A list of the material available for public inspection required by KRS 216.547[~~; and~~

~~(5) The current rating assigned to the facility by the cabinet~~].

(2) Every long-term care facility shall post within ten (10) feet of the front reception desk and in a prominent place easily seen by residents, employees, and visitors a printed sign at least eight (8) inches by eleven (11) inches in size, with letters at least one (1) inch high, that states: "State law (KRS 216.547) requires state inspection reports on this

facility to be made available to you upon request. ASK A REPRESENTATIVE OF THIS FACILITY."

Section 3. KRS 216.547 is amended to read as follows:

(1) All long-term care facilities shall retain the following for public inspection in the office of the administrator and in the lobby of the facility:

(a) A complete copy of every inspection report of the facility received from the cabinet during the past three (3) years, including the most recent inspection report;

(b) A description of the services currently provided by the facility;

(c) A listing of the rates currently charged for services provided by the facility;

(d) A listing together with the charges for the services and items not included in the basic rate for which residents may be charged separately; and

(e) A copy of every court order issued pertaining to the quality of care or services provided in the facility.

(2) ***The Office of the Inspector General shall be responsible for providing public notice of results of licensure inspections of long-term care facilities and shall issue administrative regulations in accordance with KRS Chapter 13A to carry this out. Any licensure result that has not become final shall not be subject to release for public notice until the result becomes final.*** Nothing in this section shall be construed to limit access to public records otherwise allowed pursuant to the provisions of KRS 61.872 to 61.884.

Section 4. KRS 216.789 is amended to read as follows:

(1) No ***long-term care facility as defined by KRS 216.535(1)***[~~nursing facility~~] shall knowingly employ a person in a position which involves providing direct services to a[~~ nursing facility~~] resident if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime.

(2) A facility may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor if the crime is not related to abuse, neglect, or exploitation of an adult.

(3) Each ***long-term care facility as defined by KRS 216.535(1)***[~~nursing facility~~] shall request all conviction information from the Justice Cabinet for any applicant for employment pursuant to KRS 216.793.

(4) The ***long-term care facility***[~~ nursing facility~~] may temporarily employ an applicant pending the receipt of the conviction information.

Section 5. KRS 216.555 is amended to read as follows:

If upon inspection or investigation the cabinet determines that a long-term care facility has violated the regulations, standards, and requirements as set forth by the cabinet pursuant to[~~ KRS 216.550 or~~] the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act and such violation has been classified in KRS 216.557, the cabinet shall immediately issue a citation to the licensee of the long-term care facility. Each notice of violation shall be prepared in writing and shall specify the nature of the violation, and the statutory provision or regulation alleged to have been violated.

Section 6. KRS 216.557 is amended to read as follows:

Citations issued pursuant to KRS 216.537 to 216.590 shall be classified according to the nature of the violation as follows:

(1) Type "A" violation means a violation by a long-term care facility of the regulation, standards, and requirements as set forth by the cabinet pursuant to KRS[~~ 216.550 and~~] 216.563[~~,~~] or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents an imminent danger to any resident of a long-term care facility and creates substantial risk that death or serious mental or physical harm to a resident will occur. A Type A violation shall be abated or eliminated immediately, unless a fixed period of time not to exceed ten (10) days, as determined by the cabinet, is required for correction. A Type A violation is subject to a civil penalty in an amount not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) for each and every violation.

(2) Type "B" violation means a violation by a long-term care facility of the regulations, standards and requirements as set forth by the cabinet pursuant to KRS[~~ 216.550 and~~] 216.563[~~,~~] or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long-term care facility under Title 18 or 19 of the Social Security Act, which presents a direct or immediate relationship to the health, safety or security of any resident, but which does not create an imminent danger. A Type B violation is subject to a civil penalty in an amount not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each and every violation. A citation for a Type B violation shall specify the time within which the violation is required to be corrected as approved or determined by the cabinet. If a Type B violation is corrected within the time specified, no civil penalty shall be imposed.

Section 7. KRS 216.865 is amended to read as follows:

(1) No nursing pool shall be operated, maintained, or advertised without obtaining a license as provided in this section.

(2) The secretary shall adopt administrative regulations relating to license fees, standards of care and service, and

procedures for enforcement of penalties.

(3) The established standards of care and services shall at a minimum include:

(a) Written policies and procedures which must be maintained by each nursing pool;

(b) Records which must be maintained to assure that the criteria promulgated by administrative regulations are being met;

(c) Personnel policies which shall be developed and which shall include at a minimum: a personal interview, thorough reference check, annual evaluation of employees based on questionnaires developed and sent to hospitals, nursing homes, and other facilities to which medical personnel are sent.

(4) Upon employment or contract with a nursing pool, all medical personnel working in health care facilities shall be required to provide the following: a current negative tuberculin skin test or chest X-ray, a current license or certificate, where applicable, and a current cardiopulmonary resuscitation certification. Further, all medical personnel shall attend an annual infection control in-service and an annual safety in-service.

(5) Only those nursing pools meeting the standards prescribed for licensure by the secretary may be granted a license.

(6) Each application for a license shall be made to the Division of Licensing and Regulation and shall be accompanied by a fee prescribed by the secretary and shall be renewed annually upon expiration and reapplication when accompanied by an additional fee. Licenses and renewals thereof shall expire one (1) year from their effective date.

(7) Any license or application affected by an adverse determination by the division or the secretary shall have the same rights of appeal as set forth in KRS[~~ 216.553 and~~] 216.567.

(8) All fees collected under the provisions of this section shall be paid into the State Treasury and credited to a fund for the purposes of funding the division.

(9) All inspections of nursing pools by the division shall be unannounced.

Section 8. KRS 216.560 is amended to read as follows:

(1) If a licensee has failed to correct a Type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(2) If a licensee has failed to correct a Type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that the deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation ***for*** which it has received a citation ***and penalty***[~~ for and paid a fine for~~] during the previous twelve (12) months.

(4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS 216B.990(3) shall not apply to the offenses defined herein.

(6) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in the Kentucky nursing incentive scholarship fund, which is hereby created, and the balance of that fund shall not lapse at the end of the fiscal year to the general fund.

Section 9. The following KRS sections are repealed:

216.550 Cabinet rating system -- Evaluation -- Possible ratings defined -- Change of rating.

216.553 Appeal of assignment of a particular rating.

The Committee on Appropriations and Revenue reported **HB 85**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to the Committee Substitute to **HB 85** is as follows:

On page 5, line 18, By deleting everything after "***copies.***" through line 20.

On page 6, Between lines 7 and 8 by inserting the following:

"***(7) The cabinet shall charge a fee for each copy of the materials distributed in accordance with subsections (1) and (3) of this section. The fee shall be sufficient to cover the cost of the administration of the materials published in***

accordance with subsection (2) of this section, including the cost of preparation and distribution of materials."

Calendar

HB 627 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 161**, by Representative Burch:

On page 19, line 24, after "shall", By adding the word "***periodically***".

On page 19, lines 24 and 25, after "agencies" By bracketing and striking through "upon their request"; and

On page 19, lines 25 and 26, after "parent", By bracketing and striking through" in cases where the overdue support exceeds one thousand dollars ($1,000)"; and

On page 19, lines 26 and 27, after "Amounts", By bracketing and striking through "less than one thousand dollars ($1,000)"; and

On page 19, line 27, after "cabinet", By bracketing and striking through "upon request by" and inserting "***to***" in lieu thereof.

Report On Enrolled Bills

HB 341, HB 345 and **HB 364** delivered to the Senate and signed by the President. Delivered to the Governor on March 3, 1998 at 2:45 p.m.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 521, HB 548, HB 568, HB 629, SB 63, SB 105, SB 135,** and **HB 471** have been posted for passage in the Orders of the Day for March 4, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 485, SB 13, HB 658, HB 456**

Representative Ford moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 125**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby affords deep appreciation to our Retired Honored Colleagues visiting the House Chambers on this legislative day. Having served with great honor and distinction during their tenures as Kentucky State Representatives, these distinguished gentlemen are applauded by the members of the 1998 General Assembly for the sterling examples they have set. Joining the members of the House of Representatives today are Ray Altman, former Representative of the 51st District; Clarence Noland, of the 84th District; Tommy Todd of the 83rd District; Richard Turner of the 22nd District; and Richard Fryman of the 53rd District. The members of this august body are honored to join Representative Danny Ford in tribute to the legacy of these fine gentlemen of the Commonwealth and in extending to them best wishes for continuing prosperity and success. **Legislative Citation No. 125** was adopted without objection.

Roll call to show co-sponsors of **Legislative Citation No. 125**. (See March 3, 1998 roll call on **Legislative Citation No. 125** - Appendix)

Orders of the Day

HB 271, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of

members elected.

Representative Wayne moved the adoption of Floor Amendment No. 1 to **HB 271**.

On the roll call on Floor Amendment No. 1 to **HB 271** the vote was: Yeas 45, Nays 43. (See March 3, 1998, roll call on **Floor Amendment No. 1** to **HB 271** - Appendix.) Floor Amendment No. 1 to **HB 271** was adopted.

Representative Wayne moved that **HB 271**, as amended, be passed.

On the roll call the vote was: Yeas 66, Nays 28 (See March 3, 1998 roll call on **HB 271** - Appendix.) **HB 271**, as amended, was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 271**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 625**, by Representative Barrows:

On page 1, line 9 by inserting in front of the word "joint": "***action of the government entity or entities that established the six (6) member board***" and by bracketing and striking through the words "joint action of the county and city"; and

On page 3, lines 14 and 15. by deleting the words "***One (1)***" and inserting in lieu thereof "***Two (2)***".

Floor Amendment No. 2 to the Committee Substitute to **HB 161**, by Representative Barrows:

On page 2, line 26, after "the" by inserting the following "***court where the action is pending or the***"; and

On page 8, line 4, after "***compensation***" by inserting "***awards attributable to lost wages***"; and

On page 11, line 23, after "***Act.***" by inserting the following "***Establishment of the state unit may include the designation and continuation of existing local collection units to aid efficient and effective collection, disbursement, and recording of child support payments.***"; and

On page 18, lines 13 and 14, by deleting "***of ten dollars ($10) for filing the lien and the same fee for releasing the lien***" and inserting in lieu thereof "***pursuant to KRS Chapter 64***"; and

On page 47, lines 13 and 14, by deleting "***except for good cause***" and inserting in lieu thereof; "***unless the person or guardian of the person who is requested to submit to genetic testing shows good cause, taking into account the best interests of the child, why the genetic tests cannot be performed***" and

On page 47, line 14, after "***party***" by adding the following "***, requesting that the test be performed, which shall include the information required by 42 U.S.C. sec. 666(a)(5)(B)(i) or (ii)***"

On page 49, line 15, after "***court***", by adding "***or appropriate state court***"; and

On page 51, line 2, after "***review***" by inserting "***under subsection (1) of this section***"; and

On page 52, line 2, by deleting "***within fourteen (14) days of the issuance***" and inserting in lieu thereof "***by sending a copy of the order to withhold at the same time that the order is sent to the employer***"; and

On page 57, line 5, by inserting after "***42 U.S.C. sec. 666(a)(5)(I),***", "***except to the extent that it is required under Section 7 of the Constitution of Kentucky,***"; and

On page 57, line 11, after "***ratified***" by inserting "***under KRS Chapter 213***"; and

On page 67, line 13, by deleting "***The Kentucky Revenue Cabinet and***"; and

On page 67, line 17, by deleting "***tax laws, and the***"; and

On page 67, line 18, by deleting "***Kentucky Revenue Cabinet and the***"; and

On page 67, line 21, by deleting "***the Revenue Cabinet and***"; and

On page 67, line 23, by deleting "***the tax***"; and

On page 67, line 24, by deleting "***laws, and***"; and

Beginning on page 67, line 27 through page 69, line 23, by deleting the text of Section 45 in its entirety and replacing it with the following:

"***The cabinet may coordinate with other state agencies and cabinets to develop a system for the effective and efficient collection of child support payments.***" and

On page 70, line 13, by deleting "***Revenue Cabinet or the***"; and

On page 70, line 19, by deleting "***or providing tax information to the***"; and

On page 70, line 20, by deleting "***Revenue Cabinet or furnishing a report***"; and

On page 70, line 24, by deleting "***the Revenue Cabinet or***" and

On page 70, line 25, by deleting "***; except that***", and inserting in lieu thereof "***.***"; and

On page 70, line 26, by deleting "***the Revenue Cabinet***"; and

On page 70, line 27, by deleting "***and***"; and

On page 71, line 2 after the "***(2)***" by deleting the remainder of the line through the end of line 5; and

On page 71, line 6, by deleting the "***(3)***"; and

On page 71, line 11, by deleting the "***(4)***" and inserting in lieu thereof "***(3)***"; and

On page 71, line 12, by deleting "***form***" and inserting in lieu thereof "***from***"; and

On page 71, line 13, by deleting "***the Revenue Cabinet and***" and

On page 71, line 16, by deleting "***the Revenue Cabinet and***" and

On page 71, line 17, by deleting "***the Revenue***"; and

On page 71, line 18, by deleting "***Cabinet and***"; and

On page 71, line 19, by deleting the "***(5)***" and inserting in lieu thereof "***(4)***"; and

On page 71, line 25, by deleting the "***(6)***" and inserting in lieu thereof "***(5)***"; and

On page 72, line 4, after "***holders.***" by inserting "***The Cabinet shall notify, not less than annually, affected depositors or accountholders who have not otherwise received notification.***"

On page 72, line 5, by deleting the "***(7)***" and inserting in lieu thereof "***(6)***"; and

On page 72, line 5, by deleting "***the Revenue Cabinet***"; and

On page 72, line 6, by deleting "***and***"; and

On page 72, line 6, by deleting "***, as determined by either cabinet,***"; and

On page 72, line 7, by deleting "***less***" and inserting in lieu thereof "***more***"; and

On page 72, line 7, by deleting "***nor more than fifty dollars ($50)***"; and

On page 72, line 7, by deleting "***shall***" and inserting in lieu thereof "***may***"; and

On page 72, line 8, by deleting "***the Revenue Cabinet***"; and

On page 72, line 9, by deleting "***or***"; and

On page 72, line 25, after "***(2)***" by inserting "***The cabinet shall provide notice to***"; and

On page 72, line 26, by deleting "***shall be informed by the notice of lien or levy to***" and inserting in lieu thereof, "***by sending them a notice of the lien or levy to withhold and deliver within two (2) business days of the date that notice is sent to the financial institution.***"; and

On page 72, line 27, by deleting the line in its entirety; and

On page 73, line 1, by deleting the line in its entirety; and

On page 73, line 14, by deleting "***isolated***" and inserting in lieu thereof "***is located***"; and

On page 74, line 14, by deleting "***for may be***".

Orders of the Day (Continued)

HB 272, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Floor Amendment No. 1 to **HB 272**. Agreed.

Representative Wayne moved that **HB 272**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 3, 1998 roll call on **HB 272** - Appendix.) **HB 272**, as amended, was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 272**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 273, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 273**. Agreed. Representative Wayne moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 273**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 273**. Rejected.

Representative Wayne moved that **HB 273**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 3, 1998 roll call on **HB 273** - Appendix.) **HB 273**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 273**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 274, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Floor Amendment No. 1 to **HB 274**. Agreed.

Representative Wayne moved that **HB 274**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 3 (See March 3, 1998 roll call on **HB 274** - Appendix.) **HB 274**, as amended, was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 274**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 275, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 275**. Agreed. Representative Wayne moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 275**. Agreed.

Representative Wayne moved that **HB 275**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 80, Nays 15 (See March 3, 1998 roll call on **HB 275** - Appendix.) **HB 275**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 275**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 300 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 300** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 3, 1998 roll call on **HB 300** - Appendix.) **HB 300** was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 300** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 492, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Floor Amendment No. 1 to **HB 492**.

On the roll call on Floor Amendment No. 1 to **HB 492** the vote was: Yeas 55, Nays 36. (See March 3, 1998, roll call on Floor Amendment No. 1 to **HB 492** - Appendix.) Floor Amendment No. 1 to **HB 492** was adopted.

Representative Wayne moved that **HB 492**, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 16 (See March 3, 1998 roll call on **HB 492** - Appendix.) **HB 492**, as amended, was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 492**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Pro-Tempore L. Clark presiding.

HB 246, with Committee Substitutes, Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Substitute No. 2 to **HB 246**. Agreed.

Representative Richards moved that **HB 246**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: Yeas 91, Nays 7 (See March 3, 1998 roll call on **HB 246** - Appendix.) **HB 246**, by way of Committee Substitute No. 2, was passed. Representative Richards moved the adoption of the Committee Amendment No. 1 Title to the Committee Substitute No. 2 to **HB 246**. Agreed; and the title was agreed to. Representative Richards moved that the vote by which **HB 246**, by way of Committee Substitute No. 2 as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker resumed the Chair.

HB 350 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 350** be passed.

On the roll call the vote was: Yeas 92, Nays 2 (See March 3, 1998 roll call on **HB 350** - Appendix.) **HB 350** was passed and the title agreed to. Representative Stumbo moved that the vote by which **HB 350** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 545, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of Committee Amendment No. 1 to **HB 545**. Agreed.

Representative Thomas moved that **HB 545**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 3, 1998 roll call on **HB 545** - Appendix.) **HB 545**, as amended, was passed and the title agreed to. Representative Thomas moved that the vote by which **HB 545**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 602 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved that **HB 602** be passed.

On the roll call the vote was: Yeas 81, Nays 10 (See March 3, 1998 roll call on **HB 602** - Appendix.) **HB 602** was passed and the title agreed to. Representative Nesler moved that the vote by which **HB 602** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 624, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 624**. Agreed.

Representative Marzian moved that **HB 624**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 3, 1998 roll call on **HB 624** - Appendix.) **HB 624**, by way of Committee Substitute, was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 624**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 188 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 188** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 3, 1998 roll call on **HB 188** - Appendix.) **HB 188** was passed and the title agreed to. Representative Burch moved that the vote by which **HB 188** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 592 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Zimmerman moved that **HB 592** be passed.

On the roll call the vote was: Yeas 89, Nays 2 (See March 3, 1998 roll call on **HB 592** - Appendix.) **HB 592** was passed and the title agreed to. Representative Zimmerman moved that the vote by which **HB 592** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 614 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **HB 614** be passed.

On the roll call the vote was: Yeas 91, Nays 2 (See March 3, 1998 roll call on **HB 614** - Appendix.) **HB 614** was passed and the title agreed to. Representative Riggs moved that the vote by which **HB 614** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 77 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brandstetter moved that **HCR 77** be adopted.

On the roll call the vote was: Yeas 93, Nays 2 (See March 3, 1998 roll call on **HCR 77** - Appendix.) **HCR 77** was adopted. Representative Brandstetter moved that the vote by which **HCR 77** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 651, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 651**. Agreed.

Representative Callahan moved that **HB 651**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 3, 1998 roll call on **HB 651** - Appendix.) **HB 651**, by way of Committee Substitute, was passed and the title agreed to. Representative Callahan moved that the vote by which **HB 651**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 279 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 279** be passed.

On the roll call the vote was: Yeas 49, Nays 39 (See March 3, 1998 roll call on **HB 279** - Appendix.) **HB 279** was passed and the title agreed to. Representative Gray moved that the vote by which **HB 279** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 446 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Murgatroyd moved that **HB 446** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 3, 1998 roll call on **HB 446** - Appendix.) **HB 446** was passed and the title agreed to. Representative Murgatroyd moved that the vote by which **HB 446** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 518 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved that **HB 518** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 3, 1998 roll call on **HB 518** - Appendix.) **HB 518** was passed and the title agreed to. Representative Lee moved that the vote by which **HB 518** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HJR 58** has been examined and found correctly enrolled. Said Resolution was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:07 p.m.)

Orders of the Day (Continued)

HB 632, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Floor Amendment No. 1 to **HB 632**. Agreed.

Representative Long moved that **HB 632**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 3, 1998 roll call on **HB 632** - Appendix.) **HB 632**, as amended, was passed and the title agreed to. Representative Long moved that the vote by which **HB 632**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 410, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johns moved that **HB 410** be passed.

Representative Gray moved the adoption of Floor Amendment No. 1 to **HB 410**.

On the roll call on Floor Amendment No. 1 to **HB 410** the vote was: Yeas 39, Nays 44 (See March 3, 1998, roll call on Floor Amendment No. 1 to **HB 410** - Appendix.) Floor Amendment No. 1 to **HB 410** was rejected.

Representative Johns moved that **HB 410** be passed.

On the roll call the vote was: Yeas 85, Nays 10 (See March 3, 1998 roll call on **HB 410** - Appendix.) **HB 410** was passed and the title agreed to. Representative Johns moved that the vote by which **HB 410** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 821, by Representative Jenkins: AN ACT relating to residency requirements for employees.

HB 822, by Representative Jenkins: AN ACT relating to labor disputes.

HB 823, by Representative Jenkins: AN ACT relating to workforce development.

HB 824, by Representative Stein: AN ACT relating to crimes and punishments.

HB 825, by Representative D. D. Butler: AN ACT relating to gas wells for personal use.

HB 826, by Representative Burch: AN ACT relating to services for children.

HB 827, by Representatives R. Adams, Haydon, and Weaver: AN ACT relating to public roads.

HB 828, by Representative D. D. Butler: AN ACT relating to teachers.

HB 829, by Representative Riggs: AN ACT relating to neighborhood improvement zones.

HB 830, by Representative Bowling: AN ACT relating to crimes and punishments.

HB 831, by Representative Riggs: AN ACT relating to local government.

HB 832, by Representative Bowling: AN ACT relating to civil actions.

HB 833, by Representative Bowling: AN ACT relating to civil actions.

HB 834, by Representative Bowling: AN ACT relating to civil actions.

HB 835, by Representative Bowling: AN ACT relating to civil actions.

HB 836, by Representative Bowling: AN ACT relating to civil actions.

HB 837, by Representative J. Adams: AN ACT relating to volunteer police forces.

HB 838, by Representative Bowling: AN ACT relating to court opinions.

HB 839, by Representative Palumbo: AN ACT relating to campaign expenditures.

HB 840, by Representative Palumbo: AN ACT relating to crimes and punishments.

HB 841, by Representative Palumbo: AN ACT relating to crimes and punishments.

HB 842, by Representative Palumbo: AN ACT relating to landlords and tenants.

HB 843, by Representatives Marcotte, Murgatroyd, Callahan, Walton, and Kerr: AN ACT relating to economic development.

HB 844, by Representative Geveden: AN ACT relating to domestic violence statistics.

HB 845, by Representative Bowling: AN ACT relating to civil actions.

HB 846, by Representative Bowling: AN ACT relating to civil actions.

HB 847, by Representatives Gray and Haydon: AN ACT relating to workers' compensation.

HB 848, by Representative Pope: AN ACT relating to alcohol and drug counselors.

HB 849, by Representatives Baugh and J. Adams: AN ACT relating to slow-moving vehicles.

HB 850, by Representative Moberly: AN ACT relating to the budget.

HB 851, by Representative Bowling: AN ACT relating to crimes and punishments.

HB 852, by Representative Bowling: AN ACT relating to crimes and punishments.

HB 853, by Representatives J. Arnold, Bruce, Lee and Allen: AN ACT relating to administrative regulations.

HB 854, by Representative Simpson: AN ACT relating to liens.

HB 855, by Representative Bowling: AN ACT relating to court opinions.

HB 856, by Representative A. Arnold: AN ACT relating to local government.

HB 857, by Representative Alexander: AN ACT relating to local government utility financing.

HB 858, by Representative Alexander: AN ACT relating to school finance.

HB 859, by Representative Alexander: AN ACT relating to school athletics.

HB 860, by Representative Yonts: AN ACT relating to charitable gaming exemption.

HB 861, by Representative Simpson: AN ACT relating to alcoholic beverages.

HB 862, by Representative G. Graham: AN ACT relating to the restoration of the American Chestnut tree in Kentucky.

HB 863, by Representative Nesler: AN ACT relating to local government.

HB 864, by Representatives Palumbo, Bruce, Stacy, Adkins, Deskins, Bowling, Stumbo, Brandstetter, Alexander, Jenkins, Marzian, Jordan, Johns, Rader, Colter, and Stein: AN ACT relating to health and welfare, and making an appropriation therefor.

HCR 113, by Representative Geveden: A CONCURRENT RESOLUTION to create a Task Force on Information Technology.

HCR 114, by Representative Palumbo: A CONCURRENT RESOLUTION directing a study relating to protection of the elderly from fraud and abuse.

HJR 115, by Representative Ratliff: A JOINT RESOLUTION directing the Transportation Cabinet to name the bridge on US 23 over Sookey's Creek in Pike County in honor of Hobert Potter and to erect appropriate signs.

HJR 116, by Representative Worthington: A JOINT RESOLUTION directing the Transportation Cabinet to name the bridge on US 62 over the North Fork of the Licking River in Mason County in memory of Lloyd "Buss" Hitt.

HJR 117, by Representative G. Graham: A JOINT RESOLUTION authorizing and directing a comprehensive study of the East Valley Goat Project in Morgan County, and making an appropriation therefor.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **SB 120**

Cities: **HB 783, HB 775**

Labor and Industry: **HB 713, HB 734, HB 735, HB 742, SB 136, SB 296**

Judiciary: **HB 736**

Natural Resources and Environment: **SB 18, SB 42, SB 59, SB 253, HB 717, HB 723, HB 737, HB 765, HCR 1**

Agriculture and Small Business: **HB 769**

Transportation: **HB 413, HB 546, HB 635, HB 674, HB 740, HB 741, HB 746, HB 747, HB 495, HB 589, HJR 92, HCR 97, HJR 98, SB 221, SJR 76**

Education: **HB 502, HB 724**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 13,** with Committee Amendment attached thereto, **HB 324,** with Committee Substitute attached thereto, and **SB 264** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 13, AN ACT relating to marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 402 IS CREATED TO READ AS FOLLOWS:

(1) A marriage between members of the same sex which occurs in another jurisdiction shall be void in Kentucky.

(2) Any rights granted by virtue of the marriage, or its termination, shall be unenforceable in Kentucky courts.

Section 2. KRS 402.020 is amended to read as follows:

(1) Marriage is prohibited and void:

(a) With a person who has been adjudged mentally disabled by a court of competent jurisdiction;

(b) Where there is a husband or wife living, from whom the person marrying has not been divorced;

(c) When not solemnized or contracted in the presence of an authorized person or society;

(d) Between members of the same sex; and

(e)[~~(d)~~]When at the time of marriage, the person is under eighteen (18) years of age, if the marriage is without the consent of:

1. The father or the mother of the person under eighteen (18), if the parents are married, the parents are not legally separated, no legal guardian has been appointed for the person under eighteen (18), and no court order has been issued granting custody of the person under eighteen (18) to a party other than the father or mother;
2. Both the father and the mother, if both be living and the parents are divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) has been issued and is in effect;
3. The surviving parent, if the parents were divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) was issued prior to the death of either the father or mother, which order remains in effect;
4. The custodial parent, as established by a court order which has not been superseded, where the parents are divorced or legally separated and joint custody of the person under eighteen (18) has not been ordered; or
5. Another person having lawful custodial charge of the person under eighteen (18)***, but***[~~;~~

~~Provided, however, that~~] in case of pregnancy, the male and female, or either of them, under the ages[~~ herein~~] specified ***in this paragraph*** may apply to a District Court Judge for permission to marry, which application may be granted, in the discretion of the judge. There shall be a fee of five dollars ($5) for hearing each such application.[~~;~~]

(2) For purposes of this section, "parent," "father," or "mother" means the natural parent, father, or mother of a child under eighteen (18) unless an adoption takes place pursuant to legal process, in which case the adoptive parent, father, or mother shall be considered the parent, father, or mother to the exclusion of the natural parent, father, or mother, as applicable.

Section 3. KRS 402.040 is amended to read as follows:

(1) If any resident of this state marries in another state, the marriage shall be valid here if valid in the state where solemnized***, unless the marriage is against Kentucky public policy***.

(2) A marriage between members of the same sex is against Kentucky public policy and shall be subject to the prohibitions established in Section 1 of this Act.

Section 4. KRS 402.030 is amended to read as follows:

Courts having general jurisdiction may declare void any marriage obtained by force or fraud or, at the instance of any next friend, may declare any marriage void where the person was under eighteen (18) years of age at the time of the marriage, and the marriage was without the consent required by KRS ***402.020(1)(e)***[~~402.020(1)(d)~~] and has not been ratified by cohabitation after that age.

Section 5. KRS 402.210 is amended to read as follows:

If either of the parties is under eighteen (18) years of age and not before married, no license shall issue without the consent required by KRS ***402.020(1)(e)***[~~402.020(1)(d)~~], personally given or certified in writing to the clerk over the signature of the person consenting in accordance with KRS ***402.020(1)(e)***[~~402.020(1)(d)~~], attested by two (2) subscribing witnesses and proved by the oath of one (1) of the witnesses, administered by the clerk. If the parties are personally unknown to the clerk, a license shall not issue until bond, with good surety, in the penalty of one hundred dollars ($100) is given to the Commonwealth, with condition that there is no lawful cause to obstruct the marriage.

Section 6. KRS 402.260 is amended to read as follows:

If any person under eighteen (18) years of age marries without the consent required by KRS ***402.020(1)(e)***[~~402.020(1)(d)~~], the court having general jurisdiction in the county of his residence shall, on the petition of a next friend, commit his estate to a receiver, who, upon giving bond, shall hold his estate and, after deducting a reasonable compensation for his services, pay out the rents and profits to his separate use during his infancy, under the direction of the court. When the person arrives at the age of eighteen (18), the receiver shall deliver his estate to him, unless the court considers it for his benefit to continue it in the hands of the receiver.

The Committee Amendment No. 1 to **HB 13** is as follows:

On page 1, on line 15, to delete "***and***"; and

On page 1, between lines 15 and 16, to insert the following:

"***(e) Between more than two (2) persons; and***"; and

On page 1, line 16, to delete "***(e)***" and to insert in lieu thereof "***(f)***"; and

On page 2, between lines 25 and 26 to insert the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 402 IS CREATED TO READ AS FOLLOWS:

As used and recognized in the law of the Commonwealth, "marriage" refers only to the civil status, condition, or relation of one (1) man and one (1) woman united in law for life, for the discharge to each other and the community of the duties legally incumbent upon those whose association is founded on the distinction of sex."; and

On page 2, line 26, to delete "Section 4." and to insert in lieu thereof "Section 5."; and

To renumber the ensuing sections appropriately.

HB 324, AN ACT relating to nonprofit health care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216C IS ESTABLISHED AND CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10, unless the context requires otherwise:

(1) "Acquisition" means any acquisition by a person or persons of an ownership or controlling interest in a nonprofit health care facility, whether by purchase, merger, transfer, exchange, option, lease, gift, or otherwise, which results in a change of ownership or control of twenty percent (20%) or greater or which results in the acquiring person or persons holding a thirty percent (30%) or greater interest in the ownership or control of a nonprofit health care facility.

(2) "Affected party" means the applicant, any person residing within the geographic area served by the facility, any person who regularly uses health facilities within that geographic area, health facilities located in the health service area which provide services similar to the services of the facility proposed to be acquired, the cabinet, the Attorney General, and third-party payors who reimburse health facilities for service in the health service area;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Health care facility" means any hospital or other health care facility as defined under KRS Chapter 216B; and

(5) "Nonprofit corporation" shall have the same meaning as in KRS 273.161.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

(1) No person shall engage in the acquisition of a health care facility owned by a nonprofit corporation without first

having applied for and received the approval of the Cabinet for Human Resources and without first having notified the Attorney General in accordance with the provisions of Sections 1 to 10 of this Act. Approval of the cabinet shall not be required for the acquisition of a health care facility not owned by a nonprofit corporation, charitable trust, or private foundation.

(2) Any person engaging in the acquisition of a nonprofit health care facility shall provide the cabinet and the Attorney General with at least thirty (30) days notice of an impending acquisition through the filing of an application. The application shall briefly describe the impending acquisition, including any change in ownership of tangible or intangible assets. An application fee shall be paid to the cabinet in an amount to be determined by administrative regulations promulgated by the cabinet under KRS Chapter 13. The application shall be submitted simultaneously to the cabinet and to the Attorney General on forms provided by the cabinet and shall include the following:

(a) The name of the seller;

(b) The name of the purchaser or other parties to an acquisition;

(c) The terms of the proposed agreement;

(d) The sale price;

(e) A copy of the acquisition agreement;

(f) A financial and economic analysis and report prepared by an independent expert or consultant of the effect of the acquisition under the criteria set forth in Section 4 of this Act;

(g) A community health services plan, in which the entity acquiring the nonprofit health facility shall make commitments as to:

1. The amount of indigent care or care to the uninsured in relation to historical levels to be provided by the facility in the affected community for at least five (5) years after the date of the acquisition;

2. The level of health services that will be maintained by the facility in relation to the facility's historical level of services for a period of at least five (5) years after the date of the acquisition, including any planned reduction in services;

3. Any new health services that will be offered by the facility; and

4. Any other efforts or programs that the facility will undertake to promote improved health care in the affected community;

(h) All other related documents; and

(i) Any additional information requested by the cabinet or the Attorney General.

(3) The application and all related documents shall be considered open records under the provisions of KRS 61.872 to 61.844.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) days after the conclusion of the public hearing requested under subsection (2) of this section, the cabinet shall review the proposed acquisition of a nonprofit health care facility in accordance with the criteria set forth in Section 4 of this Act and issue a written decision to approve, disapprove, or conditionally approve the acquisition. If a written decision is not issued by the cabinet within ninety (90) days following receipt of a completed application of an impending acquisition, the application shall be deemed to be approved, subject to appeal rights set forth in subsection (4) of this section, unless all parties agree to an extension of time. Any conditions imposed by the cabinet on the proposed acquisition shall relate to the criteria set forth in Section 4 of this Act and shall bear a direct and rational relationship to the acquisition under review.

(2) (a) Prior to the cabinet issuing a written decision under this section, the Attorney General shall hold a public hearing for the purpose of making written findings as to whether the proposed acquisition meets the criteria set forth in Section 4 of this Act. Any person may file written comments and exhibits at the hearing, or appear and make a statement on the proposed acquisition or the community health services plan filed under Section 2 of this Act.

(b) The public hearing shall be conducted in the county in which the facility is located. The Attorney General may subpoena additional information or witnesses, require and administer oaths, require sworn statements, take depositions, and use related discovery procedures for purposes of the hearing and at any time prior to issuing written findings on the acquisition.

(c) The hearing shall be held not later than thirty (30) days after receipt of an application, not including days the application is deemed to be incomplete. Within ten (10) days following receipt of an application, written notice shall be published by the Attorney General in a newspaper of general circulation in the county or counties where the health care facility is located and notice shall be provided by first-class mail to any person who has requested notice of public hearings on proposed acquisitions of nonprofit health care facilities. The

public notice shall:

1. *State that an application for a proposed acquisition of a nonprofit health care facility has been received;*
2. *State the names of the parties to the agreement;*
3. *Describe the contents of the application for the proposed acquisition;*
4. *State the location in the county at which the full application will be made available for public inspection prior to the hearing;*
5. *State the date, time, and place of the public hearing; and*
6. *State the date by which a person may submit written comments about the proposed acquisition to the Attorney General.*

(3) Within thirty (30) days after the conclusion of the public hearing, the Attorney General shall issue written findings of fact as to whether the proposed acquisition meets the criteria for approval as set forth in Section 4 of this Act.

(4) Within thirty (30) days of a final decision of the secretary under this section, any affected party having a legal interest in the health care facility being acquired or in another health care facility that has contracted with the health care facility being acquired for the provision of essential health services, may seek judicial review in the Circuit Court in the county in which the facility is located of a decision by the cabinet under this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

In considering whether to approve or disapprove the proposed acquisition of a nonprofit health care facility, the cabinet shall determine whether the proposed acquisition is in the public interest as defined in the criteria set forth in this section. An acquisition is not in the public interest unless appropriate steps have been taken to safeguard the value of charitable assets, ensure that any proceeds of the transaction are used for appropriate charitable health care purposes as provided in subsection (9) of this section, and ensure the availability of health care services to the affected community. In determining whether the acquisition is in the public interest, the cabinet shall consider the following criteria:

(1) Whether the acquisition is permitted under the Kentucky Revised Statutes governing nonprofit entities, charitable trusts, or private foundations;

(2) Whether the nonprofit health care facility exercised due diligence in deciding to sell, selecting the purchaser, and negotiating the terms and conditions of the sale;

(3) The procedures used by the seller in making its decision, including whether appropriate expert assistance was used;

(4) Whether conflict of interest was avoided, including, but not limited to, conflicts of interest related to board members of, executives of, and experts retained by the seller, purchaser, or parties to the acquisition;

(5) Whether the seller will receive reasonably fair value for its assets;

(6) Whether the seller retained a realistic option to sell any remaining interest to the purchaser for a fair price;

(7) Whether charitable funds are placed at unreasonable risk, if the acquisition is financed in part by the seller;

(8) Whether any management contract under the acquisition is for reasonably fair value;

(9) Whether the sale proceeds will be used for appropriate charitable health care purposes consistent with the seller's original purpose or for the support and promotion of health care in the affected community and whether the proceeds will be controlled as charitable funds independently of the purchaser or parties to the acquisition;

(10) Whether any charitable corporation established to hold the proceeds of the acquisition will be broadly based in the community and representative of the community;

(11) Whether a right of first refusal to repurchase the assets by a successor nonprofit corporation or foundation if the health care facility is subsequently sold to, acquired by, or merged with another entity has been retained;

(12) Whether the purchaser has filed a community health services plan as required by Section 2 of this Act; and

(13) If health care providers will be offered the opportunity to invest or own an interest in the purchaser or a related entity to the purchaser, whether procedures or safeguards are in place to avoid conflict of interest in patient referral and the nature of such procedures or safeguards.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

The record of the public hearing held under Section 3 of this Act on an application to acquire a nonprofit health facility, the findings of the Attorney General as a result of the public hearing, and the final decision of the Cabinet for Human Resources on the application shall be reported by the cabinet to the Circuit Court:

(1) In any proceeding under KRS Chapter 273 to dissolve or liquidate a nonprofit corporation involved in an acquisition subject to approval under the provisions of Sections 1 to 9 of this Act; and

(2) In any proceeding under KRS Chapter 386 to amend, terminate, or dissolve a charitable trust involved in an

acquisition subject to approval under the provisions of Sections 1 to 9 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

(1) In carrying out the duties imposed under Sections 1 to 10 of this Act, the Attorney General may:

(a) Contract with, consult, and receive advice from any state agency on those terms and conditions that the Attorney General deems appropriate; and

(b) Contract with experts or consultants to assist in making findings of fact as to whether the proposed acquisition meets the criteria set forth in Section 4 of this Act.

(2) Contract costs shall not exceed an amount that is reasonable and necessary to make the findings of fact required under Section 3 of this Act. Any contract entered into under this section shall be on a noncompetitive negotiation basis under KRS 45A.095. The person acquiring the nonprofit health care facility shall, upon request, pay the Attorney General promptly for all contract costs not to exceed fifty thousand dollars ($50,000), as adjusted annually in accordance with the consumer price index for all urban consumers for the South region as published by the Bureau of Labor Statistics.

(3) The Attorney General shall be entitled to reimbursement from the person acquiring the nonprofit health care facility for all actual, reasonable, direct costs incurred in conducting the public hearing and making finding of facts as required under the provisions of Sections 1 to 9 of this Act, including administrative costs. The person acquiring the nonprofit health care facility shall pay the Attorney General, upon request, for all these costs.

SECTION 7. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

The Attorney General may monitor and ensure compliance with commitments made by the acquiring entity in the community health services plan required under Section 2 of this Act; however, nothing in subsection (2)(g) of Section 2 of this Act shall be deemed to require the maintenance of a health service upon a showing by the facility that:

(1) Changes in medical practice or medical technology at the facility will permit the elimination of the health service while maintaining the same or improved access in relation to historical level of services offered by the facility; or

(2) Changes in utilization patterns of the health service will no longer support the offering of the health service by the facility.

SECTION 8. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

(1) In the event of the acquisition of a health care facility without first having received approval as required under the provisions of Sections 1 to 10 of this Act, no license to operate the health care facility shall be issued or renewed by the cabinet and a license which has been issued shall be subject to revocation or suspension as provided in KRS Chapter 216B.

(2) Upon a finding by the Attorney General that a person has violated, is violating, or is about to violate the provisions of Sections 1 to 10 of this Act, the Attorney General may institute proceedings in a court of appropriate jurisdiction to obtain injunctive relief to enjoin the person from engaging or continuing to engage in the violative act, and upon a showing that the person has engaged or is about to engage in that activity, a restraining order, temporary or permanent injunction, or any other appropriate order shall be granted.

SECTION 9. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 10 of this Act shall not be construed as inconsistent with, but shall supplement the provisions of, KRS Chapter 273 and 386 with respect to the powers of the Attorney General.

SECTION 10. A NEW SECTION OF KRS CHAPTER 216C IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 10 of this Act may be cited as the Community Health Care Assurance Act of 1998.

The Committee Substitute to **HB 324** is as follows:

AN ACT relating to nonprofit health care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10, unless the context requires otherwise:

(1) "Acquisition" means any acquisition by a person or persons of an ownership or controlling interest in a nonprofit health care facility, whether by purchase, merger, transfer, exchange, option, lease, gift, or otherwise, which results in a change of ownership or control of twenty percent (20%) or greater or which results in the acquiring person or persons holding a fifty percent (50%) or greater interest in the ownership or control of a nonprofit health care facility, but acquisition does not include the acquisition of an ownership or controlling interest in a nonprofit health care facility owned by a nonprofit corporation if the person or persons acquiring an interest in the nonprofit health

facility:

(a) Is a nonprofit corporation having a substantially similar charitable health care purpose as the transferor or is a governmental entity;

(b) Is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. sec. 501(c)(3), or as a governmental entity; and

(c) Will maintain representation from the affected community on the local board;

(2) "Affected party" means the applicant, any person residing within the geographic area served by the facility, any person who regularly uses health facilities within that geographic area, health facilities located in the health service area which provide services similar to the services of the facility proposed to be acquired, the Attorney General, and third-party payors who reimburse health facilities for service in the health service area;

(3) "Health care facility" means any hospital or other health care facility as defined under KRS Chapter 216B; and

(4) "Nonprofit corporation" shall have the same meaning as in KRS 273.161.

SECTION 2. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) No person shall acquire a health care facility as defined in and subject to the exceptions in Section 1 of this Act without first having notified the Attorney General and received approval in accordance with the provisions of Sections 1 to 10 of this Act. Approval of the Attorney General shall not be required for the acquisition of a health care facility not owned by a nonprofit corporation, charitable trust, or private foundation.

(2) No person shall acquire a health care facility in an acquisition as defined in and subject to the exceptions in Section 1 of this Act without first providing the Attorney General with at least thirty (30) days' notice of an impending acquisition through the filing of an application. The application shall briefly describe the impending acquisition, including any change in ownership of tangible or intangible assets. An application fee, not to exceed the licensure fee authorized by KRS 216B.042, shall be paid to the Attorney General in an amount to be determined by administrative regulations promulgated by the Attorney General under KRS Chapter 13. The application shall be submitted to the Attorney General on forms provided by the Attorney General and shall include the following:

(a) The name of the seller;

(b) The name of the purchaser or other parties to an acquisition;

(c) The terms of the proposed agreement;

(d) The sale price;

(e) A copy of the acquisition agreement;

(f) A detailed report addressing the effect of the acquisition under the criteria set forth in Section 4 of this Act;

(g) A community health services plan, in which the entity that will operate the health facility shall make commitments as to:

1. The amount of indigent care or care to the uninsured in relation to historical levels to be provided by the facility in the affected community for at least five (5) years after the date of the acquisition;

2. The level of health services that will be maintained by the facility in relation to the facility's historical level of services for a period of at least five (5) years after the date of the acquisition, including any planned reduction in services;

3. Any new health services that will be proposed by the facility; and

4. Any other efforts or programs that the facility will undertake to promote improved health care in the affected community; and

(h) Any additional information requested by the Attorney General reasonably related to the criteria set forth in Section 4 of this Act.

(3) The application and all related documents shall be considered open records under the provisions of KRS 61.872 to 61.844.

SECTION 3. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) days after the conclusion of the public hearing required under subsection (2) of this section, the Attorney General shall review the proposed acquisition of a nonprofit health care facility in accordance with the criteria set forth in Section 4 of this Act and issue a written decision to approve, disapprove, or conditionally approve the acquisition. Any conditions imposed by the Attorney General on the proposed acquisition shall relate to the criteria set forth in Section 4 of this Act and shall bear a direct and rational relationship to the acquisition under review.

(2) (a) Prior to issuing a written decision under this section, the Attorney General shall hold a public hearing for the

purpose of making written findings as to whether the proposed acquisition meets the criteria set forth in Section 4 of this Act. Any person may file written comments and exhibits at the hearing, or appear and make a statement on the proposed acquisition or the community health services plan filed under Section 2 of this Act.

(b) The public hearing shall be conducted in the county in which the facility is located. The Attorney General may subpoena additional information or witnesses, require and administer oaths, require sworn statements, take depositions, and use related discovery procedures for purposes of the hearing and at any time prior to issuing written findings on the acquisition.

(c) The hearing shall be held not later than thirty (30) days after receipt of an application, not including days the application is deemed to be incomplete. Within fourteen (14) days following receipt of an application, written notice shall be published by the Attorney General in a newspaper of general circulation in the county or counties where the health care facility is located and notice shall be provided by first-class mail to any person who has requested notice of public hearings on proposed acquisitions of nonprofit health care facilities. The public notice shall:

1. State that an application for a proposed acquisition of a nonprofit health care facility has been received;

2. State the names of the parties to the agreement;

3. Describe the contents of the application for the proposed acquisition;

4. State the location in the county at which the full application will be made available for public inspection prior to the hearing;

5. State the date, time, and place of the public hearing; and

6. State the date by which a person may submit written comments about the proposed acquisition to the Attorney General.

(3) Within thirty (30) days of a final decision of the Attorney General under this section, any affected party having a legal interest in the health care facility being acquired or in another health care facility that has contracted with the health care facility being acquired for the provision of essential health services, may seek judicial review in the Circuit Court in the county in which the facility is located of a decision by the Attorney General under this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

In considering whether to approve or disapprove the proposed acquisition of a nonprofit health care facility, the Attorney General shall determine whether the proposed acquisition is in the public interest as defined in the criteria set forth in this section. An acquisition is not in the public interest unless appropriate steps have been taken to safeguard the value of charitable assets, ensure that any proceeds of the transaction are used for appropriate charitable health care purposes as provided in subsection (9) of this section, and ensure the availability of health care services to the affected community. In determining whether the acquisition is in the public interest, the Attorney General shall consider the following criteria:

(1) Whether the acquisition is permitted under the Kentucky Revised Statutes governing nonprofit entities, charitable trusts, or private foundations;

(2) Whether the nonprofit health care facility exercised due diligence in deciding to sell, selecting the purchaser, and negotiating the terms and conditions of the sale;

(3) The procedures used by the seller in making its decision, including whether appropriate expert assistance was used;

(4) Whether conflict of interest was avoided, including, but not limited to, conflicts of interest related to board members of, executives of, and experts retained by the seller, purchaser, or parties to the acquisition;

(5) Whether the seller will receive reasonably fair value for its assets;

(6) Whether the seller retained a realistic option to sell any remaining interest to the purchaser for a fair price;

(7) Whether charitable funds are placed at unreasonable risk, if the acquisition is financed in part by the seller;

(8) Whether any management contract in connection with the acquisition is for reasonably fair value;

(9) Whether the sale proceeds will be used for appropriate charitable health care purposes consistent with the seller's original purpose or for the support and promotion of health care in the affected community and whether the proceeds will be controlled as charitable funds independently of the purchaser;

(10) Whether any charitable corporation established to hold the proceeds of the acquisition will be broadly based in the community and representative of the community;

(11) Whether a right of first refusal to repurchase the assets by a successor nonprofit corporation or foundation if the health care facility is subsequently sold to, acquired by, or merged with another entity has been retained;

(12) Whether the purchaser has filed a community health services plan as required by Section 2 of this Act; and

(13) If health care providers will be offered the opportunity to invest or own an interest in the purchaser or a related entity to the purchaser, whether procedures or safeguards are in place to avoid conflict of interest in patient referral and the nature of such procedures or safeguards.

SECTION 5. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

The record of the public hearing held under Section 3 of this Act on an application to acquire a nonprofit health facility, the findings of the Attorney General as a result of the public hearing, and the final decision of the Attorney General on the application shall be reported by the Attorney General to the Circuit Court:

(1) In any proceeding under this chapter to dissolve or liquidate a nonprofit corporation involved in an acquisition subject to approval under the provisions of Sections 1 to 10 of this Act; and

(2) In any proceeding under KRS Chapter 386 to amend, terminate, or dissolve a charitable trust involved in an acquisition subject to approval under the provisions of Sections 1 to 10 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) In carrying out the duties imposed under Sections 1 to 10 of this Act, the Attorney General may:

(a) Contract with, consult, and receive advice from any state agency on those terms and conditions that the Attorney General deems appropriate; and

(b) Contract with experts or consultants to assist in making findings of fact as to whether the proposed acquisition meets the criteria set forth in Section 4 of this Act.

(2) Contract costs shall not exceed an amount that is reasonable and necessary to make the findings of fact required under Section 3 of this Act. Any contract entered into under this section shall be on a noncompetitive negotiation basis under KRS 45A.095. The person acquiring the nonprofit health care facility shall, upon request, pay the Attorney General promptly for all contract costs not to exceed fifty thousand dollars ($50,000), as adjusted annually in accordance with the consumer price index for all urban consumers for the South region as published by the Bureau of Labor Statistics.

SECTION 7. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

The Attorney General may monitor and ensure compliance with commitments made by the acquiring entity in the community health services plan required under Section 2 of this Act; however, nothing in subsection (2)(g) of Section 2 of this Act shall be deemed to require the maintenance of a health service upon a showing by the facility that:

(1) Changes in medical practice or medical technology at the facility will permit the elimination of the health service while maintaining the same or improved access in relation to historical level of services offered by the facility;

(2) Changes in utilization patterns of the health service will no longer support the offering of the health service by the facility; or

(3) Changes in reimbursement patterns by third-party payors or the imposition of additional costs to the facility as a result of governmental action make the continued offering of a health service or indigent care no longer sustainable.

SECTION 8. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) In the event of the acquisition of a health care facility without first having received approval as required under the provisions of Sections 1 to 10 of this Act, no license to operate the health facility shall be issued or renewed by the cabinet and a license which has been issued shall be subject to revocation or suspension as provided in KRS Chapter 216B.

(2) Upon a finding by the Attorney General that a person has violated, is violating, or is about to violate the provisions of Sections 1 to 10 of this Act, the Attorney General may institute proceedings in a court of appropriate jurisdiction to obtain injunctive relief to enjoin the person from engaging or continuing to engage in the violative act, and upon a showing that the person has engaged or is about to engage in that activity, a restraining order, temporary or permanent injunction, or any other appropriate order shall be granted.

SECTION 9. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 10 of this Act shall not be construed as inconsistent with, but shall supplement the provisions of, this chapter and KRS Chapter 386 with respect to the powers of the Attorney General.

SECTION 10. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 10 of this Act may be cited as the Community Health Care Assurance Act of 1998.

SB 264, AN ACT relating to child abuse and domestic violence.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

The Governor's Office of Child Abuse and Domestic Violence Services is hereby created and established within the Office of the Governor. The office shall be headed by an executive director, who shall be appointed by the Governor pursuant to KRS 11.040 and shall serve at the pleasure of and under the direction of the Governor.

(1) The office's duties, rights, and responsibilities shall include, but not be limited to, the following:

(a) Provide coordinative functions so that no services funded or provided by state government agencies are duplicative so as to ensure the greatest efficiency in the use of resources and funding, and to ensure that a consistent philosophy underlies all efforts undertaken by the administration in initiatives related to child abuse, domestic violence, and rape or sexual assault.

(b) Coordinate the legislative efforts of the administration related to child abuse, domestic violence and rape or sexual assault which shall include drafting legislative proposals and providing input to the Governor on the impact of legislation proposed by other agencies and government branches.

(c) Provide training and consultation to programs provided or funded by the state which provide services to victims of child abuse, domestic violence, rape or sexual assault, and other crimes.

(d) In conjunction with staff from the Justice Cabinet and the Cabinet for Human Resources, and with input from direct service providers throughout Kentucky, develop standards of care for victim and offender services provided or funded by the state.

(e) Design and implement research programs which attend to the quality of victim-related services.

(f) Provide consultation on the development of budgets for the rape crisis, child abuse, and domestic violence programs funded by the state.

(g) Provide recommendations to the Governor and to the Secretaries of the Justice Cabinet and the Cabinet for Human Resources, related to the improvement and expansion of victim services provided or funded by these agencies.

(h) Undertake new and progressive initiatives to improve and enhance the delivery of services to victims of child abuse, domestic violence, and rape or sexual assault.

(2) The Executive Director may, at the request of the Governor or any Secretary, serve as a designee on boards, commissions, task forces or other committees addressing child abuse, domestic violence and rape or sexual assault.

(3) The First Lady of the Commonwealth shall serve as special advisor to the office.

Section 2. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;

(2) Department of Military Affairs;

(3) Department of Local Government;

(4) Kentucky Commission on Human Rights;

(5) Kentucky Commission on Women;

(6) Kentucky Commission on Military Affairs;[~~ and~~]

(7) Coal Marketing and Export Council*; and*

(8) Governor's Office of Child Abuse and Domestic Violence Services.

Section 3. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed in this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources in subsection (1) (d) and (g) of this Act shall be codified as the Cabinet for Families and Children and the Cabinet for Health Services.

Section 4. The General Assembly confirms both Executive Order 96-423, dated April 5, 1996 which created and established the Office of Sexual Abuse and Domestic Violence Services and Executive Order 96-1620, dated December 11, 1996 which changed the name of the Office of Sexual Abuse and Domestic Violence Services to the Governor's Office of Child Abuse and Domestic Violence Services to the extent they are not otherwise confirmed or superseded by this Act.

The Committee on State Government reported **HB 460,** with Committee Substitute attached thereto, **HB 562,** with Committee Substitute attached thereto, **HB 633, HB 639, HCR 81, SB 33, SB 54,** and **SB 139** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 460, AN ACT relating to government contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.030 is amended to read as follows:

As used in this code, unless the context requires otherwise:[~~The words defined in this section shall have the meanings set forth below whenever they appear in this code, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular section, group of sections or provision.~~]

(1) "Business" ***means***[~~shall mean~~] any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted***;***[~~.~~]

(2) "Change order" ***means***[~~shall mean~~] a written order signed by the purchasing officer, directing the contractor to make changes ***that***[~~which~~] the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor***;***[~~.~~]

(3) "Chief purchasing officer" ***means***[~~shall mean~~] the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177***,*** and 180***;***[~~.~~]

(4) "Construction" ***means***[~~shall mean~~] the process of building, altering, repairing, improving or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property***;***[~~.~~]

(5) "Contract" ***means***[~~shall mean~~] all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It ***includes***[~~shall include~~] awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It[~~ also~~] includes supplemental agreements with respect to any of the foregoing***;***[~~.~~]

(6) "Contract modification" ***means***[~~shall mean~~] any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It ***includes***[~~shall include~~] bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option***;***[~~.~~]

(7) "Contractor" ***means***[~~shall mean~~] any person having a contract with a governmental body***;***[~~.~~]

(8) "Data" ***means***[~~shall mean~~] recorded information, regardless of form or characteristic***;***[~~.~~]

(9) "Designee" ***means***[~~shall mean~~] a duly authorized representative of a person holding a superior position***;***[~~.~~]

(10) "Employee" ***means***[~~shall mean~~] an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body***;***[~~.~~]

(11) "Governmental body" ***means***[~~shall mean~~] any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of[~~ the executive or legislative branch of the~~] state government***;***[~~.~~]

(12) ***"Memorandum of agreement" means any contract or understanding between a governmental body and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources to carry out a governmental function and any program administration contract that involves an exchange of resources or responsibilities to carry out a governmental function;***[~~"May" shall mean permissive.~~]

(13) "Negotiation" ***means***[~~shall mean~~] contracting by either the method set forth in KRS 45A.085, 45A.090***,*** or 45A.095***;***[~~.~~]

(14) "Person" ***means***[~~shall mean~~] any business, individual, organization***,*** or group of individuals***;***[~~.~~]

(15) "Procurement" ***means***[~~shall mean~~] the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It ***includes***[~~shall also include~~] all functions that pertain to the ***procurement***[~~obtaining~~] of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration***;***[~~.~~]

(16) "Purchase request" or "purchase requisition" ***means***[~~shall mean~~] that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025***;***[~~.~~]

(17) "Purchasing agency" ***means***[~~shall mean~~] any governmental body ***that***[~~which~~] is authorized by this code or its implementing ***administrative*** regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer***;***[~~.~~]

(18) "Purchasing officer" ***means***[~~shall mean~~] any person authorized by a governmental body in accordance with procedures prescribed by ***administrative*** regulations, to enter into and administer contracts and make written determinations and findings with respect thereto. The term ***includes***[~~shall also include~~] an authorized representative acting within the limits of authority***;***[~~.~~]

(19) "Services" ***means***[~~shall mean~~] the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports ***that***[~~which~~] are merely incidental to the required performance of services***;***[~~.~~]

(20)[~~ "Shall" shall mean imperative.~~

~~(21)~~] "Supplemental agreement" ***means***[~~shall mean~~] any contract modification ***that***[~~which~~] is accomplished by the mutual action of the parties***;***[~~.~~]

(21)[~~(22)~~] "Supplies" ***means***[~~shall mean~~] all property, including but not limited to leases of real property, printing and insurance, except land or a permanent interest in land***; and***[~~.~~]

(22)[~~(23)~~] "Using agency" ***means***[~~shall mean~~] any governmental body of the state ***that***[~~which~~] utilizes any supplies, services, or construction purchased under this code.

Section 2. KRS 45A.690 is amended to read as follows:

(1) As used in KRS 45A.690 to 45A.725:

(a) ***"Committee" means the Government Contract Review Committee of the Legislative Research Commission;***

(b) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the Legislature, authorized by law to contract for personal services;

(c)[~~(b)~~]"Governmental emergency" means an unforeseen event or set of circumstances ***that***[~~which~~] creates an emergency condition as defined in KRS 45A.095(3)***. It does not include the failure of a contracting body to file a personal service contract or memorandum of agreement with the committee in a timely manner***;

(d)[~~(c)~~] ***"Memorandum of agreement" means any memorandum of agreement, memorandum of understanding, program administration contract, or similar device, relating to services between a governmental body and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources or responsibilities to carry out a governmental function;***[~~"Subcommittee" means the Personal Service Contract Review Subcommittee of the Legislative Research Commission; and~~]

(e) "Multicontract" means a group of personal service contracts between a contracting body and individual vendors providing the same or substantially similar services to the contracting body that, for purposes of the committee, are treated as one contract;

(f)[~~(d)~~] "Personal service contract" means an agreement whereby an individual, firm, partnership or corporation is to perform certain ***services requiring professional skill or professional judgment***[~~duties, professional or otherwise,~~] for a specified period of time ***at***[~~for~~] a price agreed upon***. It includes all price contracts between a governmental body or political subdivision of the Commonwealth and any other entity in any amount***[~~which is exempt from competitive bidding pursuant to KRS 45A.095~~]. This definition does not apply to:

1. Agreements between the Department of Parks and a performing artist or artists for less than five thousand dollars ($5,000) per fiscal year per artist or artists;

2. Agreements with public utilities, foster care parents, ***providers of direct*** Medicaid ***health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of managed health care services established by law or by agreement with the Cabinet for Human Resources***[~~providers~~], individuals performing homemaker services, and transit authorities;

3. [~~Agreements between a state agency and a state college or university, an area development district, a community action agency, a mental health/mental retardation board, another state agency, and a political subdivision;~~

~~4.~~]Agreements between state universities ***or colleges*** and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;[~~ and~~]

4.[~~5.~~] Agreements between a state agency and rural concentrated employment programs***; or***[~~.~~]

5.[~~6.~~] Agreements between the State Fair Board and judges, officials and entertainers contracted for events promoted by the State Fair Board***;***[~~.~~]

(2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense with the requirements of any other law necessary to make the personal service contract ***or memorandum of agreement*** valid.

Section 3. KRS 45A.695 is amended to read as follows:

(1) ***Except as provided in subsection (8) of this section,*** no one shall begin work on a personal service contract ***entered into***[~~made~~] by any contracting body,[~~ except as provided in subsection (8) of this section,~~] until ***notification***[~~after a copy~~] of the personal service contract is filed with the ***committee***[~~Legislative Research Commission~~]. Each ***personal*** service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each[~~ copy of a proposed~~] personal service contract ***and memorandum of agreement shall be filed with the committee***

prior to the effective date and[~~submitted to the Legislative Research Commission~~] shall be accompanied by ***a completed proof of necessity form as established by the committee by promulgation of an administrative regulation, or equivalent information if submitted electronically*** documentation of:

(a) The need for the service;

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service;[~~ and~~]

(c) ***The total projected cost of the contract or agreement and source of funding;***

(d) The total projected duration of the contract;

(e) Detailed payment information;

(f) In the case of memoranda of agreement and similar device, the reason for exchanging resources or responsibilities; and

(g) Such other information as the committee deems appropriate[~~In the case of an architectural or engineering services contract, the documents identified in KRS 45A.830(3)~~].

(3) Adequate notice of the need for ***a personal service contract***[~~the services~~] shall be given by the contracting body through a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or ***his***[~~a~~] designee[~~ of the officer~~] may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or ***his***[~~a~~] designee[~~ of the officer~~], to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors in the order of their respective qualification ranking. In this case, the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of the officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The ***committee***[~~Legislative Research Commission~~] shall ***maintain a record or have readily accessible records of the date on which***[~~cause to be endorsed on the copies of~~] each personal service contract ***and memorandum of agreement was received***[~~submitted the time and date of the filing~~] and shall maintain ***or have access to electronic or paper files on all***[~~a file of~~] personal service contracts ***and memoranda of agreement***[~~for public inspection, with suitable indexes~~]. ***All personal service contracts and memoranda of agreement shall be made available for public inspection.***

(7) Payment on ***personal service*** contracts ***and memoranda of agreement*** submitted to the ***committee for approval***[~~subcommittee~~] shall not be made before completion of the review procedure provided for in KRS 45A.705[~~ unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary~~].

(8) In the event of a governmental emergency ***as defined under KRS 45A.095***, work may begin prior to filing ***notification***[~~a copy~~] of the personal service contract with the ***committee, if the secretary of the Finance and Administration Cabinet or his designee determines that the time involved in the normal review process would be detrimental to the Commonwealth's ability to act or procure the services and***[~~Legislative Research Commission providing that~~] the normal process will not accommodate the ***governmental*** emergency. ***Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the committee.***

(9) If ***a governmental***[~~an~~] emergency exists ***as defined under KRS 45A.095*** and work is authorized to begin ***on a personal service contact*** immediately, a copy of a statement, approved by the secretary of the Finance and Administration Cabinet ***or his designee***, setting forth in detail the nature of the emergency shall be filed with the ***committee, along with a*** copy of the personal service contract.

Section 4. KRS 45A.700 is amended to read as follows:

(1) Personal service contracts ***in aggregate amounts of***[~~on which the estimated cost does not exceed~~] one thousand dollars ($1,000) ***or less during any one fiscal year*** shall be exempt from ***routine*** review by the ***committee and***[~~subcommittee. Personal service contracts of one thousand dollars ($1,000) or less~~] shall be filed with the ***committee not more than thirty (30) days after***[~~subcommittee prior to~~] their effective date[~~ pursuant to KRS 45A.695~~] for informational purposes ***only. The committee shall examine all personal service contracts in aggregate amounts of one thousand dollars ($1,000) or less submitted more than thirty (30) days after the effective date***. The ***committee may***[~~subcommittee shall~~]

periodically examine the informational copies of personal service contracts ***in aggregate amounts*** of[~~ less than~~] one thousand dollars ($1,000) ***or less***[~~and payment of less than one thousand dollars ($1,000) for personal services~~] and may request agency participation in discussions relative to their contracts or payments. ***The provisions of this subsection shall not apply to price contracts.***

(2) ***Memoranda of agreement and price contracts in aggregate amounts of fifty thousand dollars ($50,000) or less during in any one fiscal year shall be exempt from routine review by the committee. Memoranda of agreement and price contracts in aggregate amounts of fifty thousand dollars ($50,000) or less shall be filed with the committee not more than thirty (30) days after their effective date for informational purposes only. The committee shall examine all memoranda of agreement and price contracts in aggregate amounts of fifty thousand dollars ($50,000) or less submitted more than thirty (30) days after the effective date. The committee may periodically examine memoranda of agreement and price contracts in aggregate amounts of fifty thousand dollars ($50,000) or less and may request agency participation in discussions relative to their agreements or payments.***

(3) [~~All amendments to personal service contracts covered by subsection (1) of this section shall be filed with the subcommittee prior to their effective dates. ~~]If a personal service contract of less than one thousand dollars ($1,000) is amended to the extent the amended total of the contract exceeds one thousand dollars ($1,000) per ***fiscal***[~~calendar~~] year ***per contractor***, the amended contract shall be placed on the agenda for the ***committee's routine***[~~subcommittee's~~] review. ***The provisions of this subsection shall not apply to price contracts.***

(4) If a memorandum of agreement or price contracts of less than fifty thousand dollars ($50,000) is amended to the extent the amended total of the agreement exceeds fifty thousand dollars ($50,000) per fiscal year per governmental body, the amended agreement or contract shall be placed on the agenda for the committee's routine review.

Section 5. KRS 45A.705 is amended to read as follows:

(1) There is hereby created a permanent ***committee***[~~subcommittee~~] of the Legislative Research Commission to be known as the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~]. The ***committee***[~~subcommittee~~] shall be composed of seven (7) members ***that***[~~which~~] shall include members of the minority party as nearly proportioned to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint the members of the ***committee***[~~subcommittee~~] from the membership of the General Assembly for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as ***chairperson***[~~chairman~~]. Any vacancy ***that***[~~which~~] may occur in the membership of the ***committee***[~~subcommittee~~] shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The ***committee***[~~subcommittee~~] shall meet monthly at ***the***[~~such~~] time and place as the ***chairperson***[~~chairman~~] may determine. ***A quorum shall require at least four (4) members present and the vote shall be by majority.*** The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(3).

(3) Any professional, clerical, or other employees required by the ***committee***[~~subcommittee~~] shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All copies of proposed personal service contracts ***and memoranda of agreement*** received by the Legislative Research Commission shall be submitted to the ***committee***[~~subcommittee~~] to:

(a) Examine the stated need for the[~~ contract~~] service;

(b) Examine whether the service could or should be performed by state personnel;[~~ and~~]

(c) Examine the ***amount***[~~cost~~] and duration of the contract ***or agreement***. If the ***committee***[~~subcommittee~~] believes that the contract service ***or agreement***, other than an emergency contract approved by the ***secretary of the Finance and Administration Cabinet or his designee***[~~Governor~~], is not needed, the service could and should be performed by state personnel, the ***amount***[~~cost~~] is excessive, or the duration is excessive, the ***committee***[~~subcommittee~~] shall attach a written notation of the reasons for its disapproval or objection to the personal service contract ***or memorandum of agreement*** and shall return the personal service contract ***or memorandum of agreement*** to the secretary of the Finance and Administration Cabinet ***or his designee***.[~~ The subcommittee shall give notice of such disapproval or objection to the director of the Legislative Research Commission.~~] The ***committee***[~~subcommittee~~] shall act on a personal service contract ***or memorandum of agreement*** submitted to the Legislative Research Commission within forty-five (45) days of the ***date received; and***

(d) Examine the appropriateness of any exchange of resources or responsibilities[~~submission of the personal service contract~~].

(5) Upon receipt of the ***committee's***[~~subcommittee's~~] disapproval or objection to a personal service contract ***or memorandum of agreement***, the secretary of the Finance and Administration Cabinet ***or his designee*** shall determine whether ***the***[~~a~~] personal service contract ***or memorandum of agreement shall***:

(a) [~~Shall ~~]Be revised to comply with the objections of the ***committee***[~~subcommittee~~];

(b) [~~Shall ~~]Be ***canceled***[~~cancelled if disapproved by the subcommittee~~]; or

(c) [~~Shall ~~]Remain effective as originally approved[~~ by the Finance and Administration Cabinet~~].

(6) The secretary of the Finance and Administration Cabinet ***or his designee*** shall notify the ***committee***[~~subcommittee~~] of the action taken on personal service contracts ***and memoranda of agreement disapproved or objected to***[~~ referred to the Finance and Administration Cabinet by the subcommittee~~] within thirty (30) days from the date the ***personal service*** contracts ***or memoranda of agreement*** were reviewed by the ***committee***[~~subcommittee~~].

(7) ***Contracting bodies***[~~The subcommittee~~] shall ***make annual reports*** [~~report monthly~~] to the ***committee not later than December 1 of each year. The committee shall establish reporting procedures for contracting bodies which may include provisions for committee access to all electronic or physical files related to***[~~Legislative Research Commission all actions taken on~~] personal service contracts ***and memoranda of agreement*** by the secretary of the Finance and Administration Cabinet and the subcommittee.

Section 6. KRS 45A.725 is amended to read as follows:

(1) The ***Government Contract Review Committee with approval of the*** Legislative Research Commission ***may establish policies and procedures concerning***[~~shall review and comment on~~] the manner and form ***of notification and***[~~in which~~] the documentation to accompany the proposed personal service contract ***or memorandum of agreement***[~~shall be presented~~].

(2) Nothing in this code shall prohibit the committee from accepting personal service contracts or memoranda of agreement through the use of electronic instrumentalities.

Section 7. KRS 45A.830 is amended to read as follows:

(1) After the procuring officer has negotiated an architectural or engineering services contract for the Finance and Administration Cabinet or an engineering or related services contract for the Transportation Cabinet, but before the contract is submitted to the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~], the procuring officer shall supply a copy of the proposed contract to each member of the selection committee involved in the procurement process.

(2) The secretary of the procuring agency, the procuring officer, and each voting member of the selection committee shall sign separate certificates, devised by the procuring agency, ***that***[~~which~~] shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances ***that***[~~which~~] may constitute a violation of this chapter ***occurring***[~~which has arisen~~] in the procurement process. Any employee of the Auditor of Public Accounts, who was appointed to serve as a nonvoting member of the selection committee and who attended any committee proceeding, shall participate in the preparation of a report for filing with the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~] certifying that the applicable procedural provisions of subsections (4), (6), (7), and (8) of KRS 45A.825 were, or were not, met. Before filing the report, the employee or employees who participated in its preparation shall sign it.

(3) The procuring agency shall ***maintain the following information, readily available to the Government***[~~file with the Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~]:

(a) The certificates;

(b) The selection committee's ranking of firms; and

(c) A statement affirming that responding firms in all regions of the Commonwealth were given equal consideration for selection.

Section 8. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the ***Government***~~[Personal Service]~~ Contract Review ***Committee***~~[Subcommittee]~~ of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any

such insurance, reinsurance**,** or waiver shall be made only upon the determination by the corporation (a) that such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and (b) that such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities**,** and to owners of residential housing for the development, construction, rehabilitation**,** or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto.

The Committee Substitute to **HB 460** is as follows:

AN ACT relating to government contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.030 is amended to read as follows:

As used in this code, unless the context requires otherwise:[~~The words defined in this section shall have the meanings set forth below whenever they appear in this code, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular section, group of sections or provision.~~]

(1) "Business" ***means***[~~shall mean~~] any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted***;***[~~.~~]

(2) "Change order" ***means***[~~shall mean~~] a written order signed by the purchasing officer, directing the contractor to make changes ***that***[~~which~~] the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor***;***[~~.~~]

(3) "Chief purchasing officer" ***means***[~~shall mean~~] the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177**,** and 180***;***[~~.~~]

(4) "Construction" ***means***[~~shall mean~~] the process of building, altering, repairing, improving or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property***;***[~~.~~]

(5) "Contract" ***means***[~~shall mean~~] all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It ***includes***[~~shall include~~] awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It[~~ also~~] includes supplemental agreements with respect to any of the foregoing***;***[~~.~~]

(6) "Contract modification" ***means***[~~shall mean~~] any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It ***includes***[~~shall include~~] bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option***;***[~~.~~]

(7) "Contractor" ***means***[~~shall mean~~] any person having a contract with a governmental body***;***[~~.~~]

(8) "Data" ***means***[~~shall mean~~] recorded information, regardless of form or characteristic***;***[~~.~~]

(9) "Designee" ***means***[~~shall mean~~] a duly authorized representative of a person holding a superior position***;***[~~.~~]

(10) "Employee" ***means***[~~shall mean~~] an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body***;***[~~.~~]

(11) "Governmental body" ***means***[~~shall mean~~] any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of[~~ the executive or legislative branch of the~~] state government***;***[~~.~~]

(12)[~~ "May" shall mean permissive.~~]

~~(13)~~] "Negotiation" ***means***[~~shall mean~~] contracting by either the method set forth in KRS 45A.085, 45A.090 or 45A.095***;***[~~.~~]

(13)[~~(14)~~] "Person" ***means***[~~shall mean~~] any business, individual, organization***,*** or group of individuals***;***[~~.~~]

(14)[~~(15)~~] "Procurement" ***means***[~~shall mean~~] the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It ***includes***[~~shall also include~~] all functions that pertain to the ***procurement***[~~obtaining~~] of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration***;***[~~.~~]

(15)[~~(16)~~] "Purchase request" or "purchase requisition" ***means***[~~shall mean~~] that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025***;***[~~.~~]

(16)[~~(17)~~] "Purchasing agency" ***means***[~~shall mean~~] any governmental body ***that***[~~which~~] is authorized by this code or its implementing ***administrative*** regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer***;***[~~.~~]

(17)[~~(18)~~] "Purchasing officer" ***means***[~~shall mean~~] any person authorized by a governmental body in accordance with procedures prescribed by ***administrative*** regulations, to enter into and administer contracts and make written determinations and findings with respect thereto. The term ***includes***[~~shall also include~~] an authorized representative acting within the limits of authority***;***[~~.~~]

(18)[~~(19)~~] "Services" ***means***[~~shall mean~~] the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports ***that***[~~which~~] are merely incidental to the required performance of services***;***[~~.~~]

(19)[~~(20) "Shall" shall mean imperative.~~

~~(21)~~] "Supplemental agreement" ***means***[~~shall mean~~] any contract modification ***that***[~~which~~] is accomplished by the mutual action of the parties***;***[~~.~~]

(20)[~~(22)~~] "Supplies" ***mean***[~~shall mean~~] all property, including but not limited to leases of real property, printing and insurance, except land or a permanent interest in land***; and***[~~.~~]

(21)[~~(23)~~] "Using agency" shall mean any governmental body of the state ***that***[~~which~~] utilizes any supplies, services, or construction purchased under this code.

Section 2. KRS 45A.690 is amended to read as follows:

(1) As used in KRS 45A.690 to 45A.725:

(a) ***"Committee" means the Government Contract Review Committee of the Legislative Research Commission;***

(b) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the Legislature, authorized by law to contract for personal services;

(c)[~~(b)~~]"Governmental emergency" means an unforeseen event or set of circumstances ***that***[~~which~~] creates an emergency condition as ***determined by the committee by promulgation of an administrative regulation***[~~defined in KRS 45A.095(3)~~];

(d) "Memorandum of agreement" means any memorandum of agreement, memorandum of understanding, program administration contract, or similar device relating to services between a state agency and any other governmental body or political subdivision of the Commonwealth that involves an exchange of resources or responsibilities to carry out a governmental function. This definition does not apply to:

1. Agreements between the Transportation Cabinet and political subdivision of the Commonwealth for road and road-related projects;

2. Agreements between the Auditor of Public Accounts and any other governmental agency or political subdivision of the Commonwealth for auditing services;

3. Agreements between state agencies as required by federal or state law;

4. Agreements between state universities or colleges and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;

5. Agreements involving child support collections and enforcement;

6. Agreements with public utilities, providers of direct Medicaid health care to individuals, except for any health maintenance organization or other entity primarily responsible for administration of any program or system of managed health care services established by law or by agreement with the Cabinet for Human Resources, and transit authorities;

7. Nonfinancial agreements;

8. Any obligation or payment for reimbursement of the cost of corrective action made pursuant to KRS

224.60-140;

9. Exchanges of confidential personal information between agencies;

10. Agreements between state agencies and rural concentrated employment programs; or

11. Any other agreement that the committee deems inappropriate for consideration;

(e) "Multicontract" means a group of personal service contracts between a contracting body and individual vendors providing the same or substantially similar services to the contracting body that, for purposes of the committee, are treated as one contract;

[~~(c) "Subcommittee" means the Personal Service Contract Review Subcommittee of the Legislative Research Commission; and~~]

(f)[~~(d)~~] "Personal service contract" means an agreement whereby an individual, firm, partnership or corporation is to perform certain ***services requiring professional skill or professional judgment***[~~duties, professional or otherwise,~~] for a specified period of time ***at***[~~for~~] a price agreed upon***. It includes all price contracts for personal services between a governmental body or political subdivision of the commonwealth and any other entity in any amount***[~~which is exempt from competitive bidding pursuant to KRS 45A.095~~]. This definition does not apply to:

1. Agreements between the Department of Parks and a performing artist or artists for less than five thousand dollars ($5,000) per fiscal year per artist or artists;

2. Agreements with public utilities, foster care parents, ***providers of direct*** Medicaid ***health care to individuals except for any health maintenance organization or other entity primarily responsible for administration of any program or system of managed health care services established by law or by agreement with the Cabinet for Human Resources***[~~providers~~], individuals performing homemaker services, and transit authorities;

3.[~~ Agreements between a state agency and a state college or university, an area development district, a community action agency, a mental health/mental retardation board, another state agency, and a political subdivision;~~

~~4.~~] Agreements between state universities ***or colleges*** and employers of students in the Commonwealth work study program sponsored by the Kentucky Higher Education Assistance Authority;[~~ and~~]

4.[~~5.~~] Agreements between a state agency and rural concentrated employment programs***;***[~~.~~]

5.[~~6.~~] Agreements between the State Fair Board and judges, officials and entertainers contracted for events promoted by the State Fair Board***; or***

6. Any other contract that the committee deems inappropriate for consideration.

(2) Compliance with the provisions of KRS 45A.690 to 45A.725 does not dispense with the requirements of any other law necessary to make the personal service contract ***or memorandum of agreement*** valid.

Section 3. KRS 45A.695 is amended to read as follows:

(1) ***Except as provided in subsection (8) of this section,*** no one shall begin work on a personal service contract ***entered into***[~~made~~] by any contracting body,[~~ except as provided in subsection (8) of this section,~~] until ***notification***[~~after a copy~~] of the personal service contract is filed with the ***committee***[~~Legislative Research Commission~~]. Each ***personal*** service contract shall have a cancellation clause not to exceed thirty (30) days notice to the contractee.

(2) Each[~~ copy of a proposed~~] personal service contract ***and memorandum of agreement shall be filed with the committee prior to the effective date and***[~~submitted to the Legislative Research Commission~~] shall be accompanied by ***a completed proof of necessity form as established by the committee by promulgation of an administrative regulation, or equivalent information if submitted electronically. The proof of necessity form shall document***[~~documentation of~~]:

(a) The need for the service;

(b) The unavailability of state personnel or the nonfeasibility of utilizing state personnel to perform the service;[~~ and~~]

(c) ***The total projected cost of the contract or agreement and source of funding;***

(d) The total projected duration of the contract;

(e) Payment information, in detail;

(f) In the case of memoranda of agreement and similar device, the reason for exchanging resources or responsibilities; and

(g) Such other information as the committee deems appropriate[~~In the case of an architectural or engineering services contract, the documents identified in KRS 45A.830(3)~~].

(3) Adequate notice of the need for ***a personal service contract***[~~the services~~] shall be given by the contracting body through

a request for proposals. The request for proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of particular qualifications.

(4) The head of the contracting body or ***his***[~~a~~] designee[~~ of the officer~~] may conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(5) Award shall be made to the offeror determined by the head of the contracting body, or ***his***[~~a~~] designee[~~ of the officer~~], to be the best qualified of all offerors based on the evaluation factors set forth in the request for proposals and the negotiation of fair and reasonable compensation. If compensation cannot be agreed upon with the best qualified offeror and if proposals were submitted by one (1) or more other offerors determined to be qualified, negotiations may be conducted with the other offeror or offerors in the order of their respective qualification ranking. In this case, the contract may be awarded to the next best ranked offeror for a fair and reasonable compensation. All determinations of the qualification rankings of offerors by the head of the contracting body or a designee of the officer based on evaluation factors set forth in the request for proposals shall be made in writing. Written documentation shall be maintained concerning the final results of negotiation with each vendor and reasoning as to why each vendor was chosen.

(6) The ***committee***[~~Legislative Research Commission~~] shall ***maintain a record or have readily accessible records of the date on which***[~~cause to be endorsed on the copies of~~] each personal service contract ***and memorandum of agreement was received***[~~submitted the time and date of the filing~~] and shall maintain ***or have access to electronic or paper files on all***[~~a file of~~] personal service contracts ***and memoranda of agreement***[~~for public inspection, with suitable indexes~~]. ***Except for records exempt from inspection under KRS 61.870 to 61.884, all personal service contracts and memoranda of agreement shall be made available for public inspection.***

(7) Payment on ***personal service*** contracts ***and memoranda of agreement*** submitted to the ***committee for approval***[~~subcommittee~~] shall not be made ***for services rendered after committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the secretary of the Finance and Administration Cabinet. All personal service contracts and memoranda of agreement shall contain a provision that stipulates the contract or amendment is canceled upon disapproval of the committee, unless the decision of the committee is overridden by the secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority***[~~before completion of the review procedure provided for in KRS 45A.705 unless the secretary of the Finance and Administration Cabinet determines that the time involved with the normal review procedure would be detrimental to the state's ability to act or to procure services. Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the subcommittee along with the personal service contract for which emergency payment is deemed necessary~~].

(8) In the event of a governmental emergency ***as defined under Section 2 of this Act***, work may begin prior to filing ***notification***[~~a copy~~] of the personal service contract with the ***committee, if the secretary of the Finance and Administration Cabinet or his designee determines that the time involved in the normal review process would be detrimental to the Commonwealth's ability to act or procure the services and***[~~Legislative Research Commission providing that~~] the normal process will not accommodate the ***governmental*** emergency. ***Payment shall not be made until written notification and explanation of the reasons for this action are forwarded to the committee.***

(9) If ***a governmental***[~~an~~] emergency exists ***as defined under Section 2 of this Act*** and work is authorized to begin ***on a personal service contact*** immediately, a copy of a statement, approved by the secretary of the Finance and Administration Cabinet ***or his designee***, setting forth in detail the nature of the emergency shall be filed with the ***committee, along with a*** copy of the personal service contract.

Section 4. KRS 45A.700 is amended to read as follows:

(1) Personal service contracts ***in aggregate amounts of five***[~~on which the estimated cost does not exceed one~~] thousand dollars ***($5,000)***[~~($1,000)~~] ***or less during any one fiscal year*** shall be exempt from ***routine*** review by the ***committee and***[~~subcommittee. Personal service contracts of one thousand dollars ($1,000) or less~~] shall be filed with the ***committee not more than thirty (30) days after***[~~subcommittee prior to~~] their effective date[~~ pursuant to KRS 45A.695~~] for informational purposes ***only. The committee shall examine all personal service contracts in aggregate amounts of five thousand dollars ($5,000) or less submitted more than thirty (30) days after the effective date***. The ***committee may***[~~subcommittee shall~~] periodically examine the informational copies of personal service contracts ***in aggregate amounts*** of ***five***[~~ less than one~~] thousand dollars ***($5,000)***[~~($1,000)~~] ***or less***[~~and payment of less than one thousand dollars ($1,000) for personal services~~] and may request agency participation in discussions relative to their contracts or payments. ***The provisions of this subsection shall not apply to price contracts for personal services.***

(2) ***Memoranda of agreement and price contracts for personal services in aggregate amounts of fifty thousand dollars ($50,000) or less during any one (1) fiscal year shall be exempt from routine review by the committee and shall be filed with the committee not more than thirty (30) days after their effective date for informational purposes only. The committee shall examine all memoranda of agreement and price contracts for personal services in aggregate***

amounts of fifty thousand dollars ($50,000) or less submitted more than thirty (30) days after the effective date. The committee may periodically examine memoranda of agreement and price contracts for personal services in aggregate amounts of fifty thousand dollars ($50,000) or less and may request agency participation in discussions relative to their agreements or payments.

(3) [~~All amendments to personal service contracts covered by subsection (1) of this section shall be filed with the subcommittee prior to their effective dates. ~~]If a personal service contract of less than ***five***[~~one~~] thousand dollars ***($5,000)***[~~($1,000)~~] is amended to the extent the amended total of the contract exceeds ***five***[~~one~~] thousand dollars ***($5,000)***[~~($1,000)~~] per ***fiscal***[~~calendar~~] year ***per contractor***, the amended contract shall be placed on the agenda for the ***committee's routine***[~~subcommittee's~~] review. ***The provisions of this subsection shall not apply to price contracts.***

(4) If a memorandum of agreement or price contracts for personal services of less than fifty thousand dollars ($50,000) is amended to the extent the amended total of the agreement exceeds fifty thousand dollars ($50,000) per fiscal year per governmental body, the amended agreement or contract shall be placed on the agenda for the committee's routine review.

Section 5. KRS 45A.705 is amended to read as follows:

(1) There is hereby created a permanent ***committee***[~~subcommittee~~] of the Legislative Research Commission to be known as the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~]. The ***committee***[~~subcommittee~~] shall be composed of seven (7) members ***that***[~~which~~] shall include members of the minority party as nearly proportioned to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint the members of the ***committee***[~~subcommittee~~] from the membership of the General Assembly for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as ***chairperson***[~~chairman~~]. Any vacancy ***that***[~~which~~] may occur in the membership of the ***committee***[~~subcommittee~~] shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The ***committee***[~~subcommittee~~] shall meet monthly at ***the***[~~such~~] time and place as the ***chairperson***[~~chairman~~] may determine. ***A quorum shall require at least four (4) members present and the vote shall be by majority.*** The members of the ***committee***[~~subcommittee~~] shall be compensated for attending meetings, as provided in KRS 7.090(3).

(3) Any professional, clerical, or other employees required by the ***committee***[~~subcommittee~~] shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All copies of proposed personal service contracts ***and memoranda of agreement*** received by the Legislative Research Commission shall be submitted to the ***committee***[~~subcommittee~~] to:

(a) Examine the stated need for the[~~ contract~~] service;

(b) Examine whether the service could or should be performed by state personnel;[~~ and~~]

(c) Examine the ***amount***[~~cost~~] and duration of the contract ***or agreement; and***

(d) Examine the appropriateness of any exchange of resources or responsibilities.

(5) If the ***committee determines***[~~subcommittee believes~~] that the contract service ***or agreement***, other than an emergency contract approved by the ***secretary of the Finance and Administration Cabinet or his designee***[~~Governor~~], is not needed, the service could ***or,***[~~and~~] should be performed by state personnel, the ***amount or duration***[~~cost~~] is excessive, or ***the exchange if resources or responsibilities are inappropriate***[~~the duration is excessive~~], the ***committee***[~~subcommittee~~] shall attach a written notation of the reasons for its disapproval or objection to the personal service contract ***or memorandum of agreement*** and shall return the personal service contract ***or memorandum of agreement*** to the secretary of the Finance and Administration Cabinet ***or his designee***.[~~ The subcommittee shall give notice of such disapproval or objection to the director of the Legislative Research Commission.~~] The ***committee***[~~subcommittee~~] shall act on a personal service contract ***or memorandum of agreement*** submitted to the Legislative Research Commission within forty-five (45) days of the ***date received***[~~submission of the personal service contract~~].

(6)[~~(5)~~] Upon receipt of the ***committee's***[~~subcommittee's~~] disapproval or objection to a personal service contract ***or memorandum of agreement***, the secretary of the Finance and Administration Cabinet ***or his designee*** shall determine whether ***the***[~~a~~] personal service contract ***or memorandum of agreement shall***:

(a) [~~Shall ~~]Be revised to comply with the objections of the ***committee***[~~subcommittee~~];

(b) [~~Shall ~~]Be ***canceled and, if applicable, payment allowed for services rendered under the contract or agreement***[~~cancelled if disapproved by the subcommittee~~]; or

(c) [~~Shall ~~]Remain effective as originally approved[~~ by the Finance and Administration Cabinet~~].

(7)[~~(6)~~] The secretary of the Finance and Administration Cabinet ***or his designee*** shall notify the ***committee***[~~subcommittee~~] of the action taken on personal service contracts ***and memoranda of agreement disapproved or objected to***[~~ referred to the Finance and Administration Cabinet by the subcommittee~~] within ***ten (10)***[~~ thirty (30)~~]

days from the date the ***personal service*** contracts ***or memoranda of agreement*** were reviewed by the ***committee***[~~subcommittee~~].

(8)[~~(7)~~] ***Contracting bodies***[~~The subcommittee~~] shall ***make annual reports*** [~~report monthly~~] to the ***committee not later than December 1st of each year. The committee shall establish reporting procedures for contracting bodies related to***[~~Legislative Research Commission all actions taken on~~] personal service contracts ***and memoranda of agreement submitted*** by the secretary of the Finance and Administration Cabinet ***or his designee***[~~and the subcommittee~~].

Section 6. KRS 45A.725 is amended to read as follows:

(1) The ***Government Contract Review Committee may establish policies and procedures concerning***[~~Legislative Research Commission shall review and comment on~~] the manner and form ***of notification and***[~~in which~~] the documentation to accompany ***a***[~~the~~] proposed personal service contract ***or memorandum of agreement***[~~shall be presented~~].

(2) Nothing in this code shall prohibit the committee from accepting personal service contracts or memoranda of agreement through the use of electronic instrumentalities.

Section 7. KRS 45A.830 is amended to read as follows:

(1) After the procuring officer has negotiated an architectural or engineering services contract for the Finance and Administration Cabinet or an engineering or related services contract for the Transportation Cabinet, but before the contract is submitted to the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~], the procuring officer shall supply a copy of the proposed contract to each member of the selection committee involved in the procurement process.

(2) The secretary of the procuring agency, the procuring officer, and each voting member of the selection committee shall sign separate certificates, devised by the procuring agency, ***that***[~~which~~] shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances ***that***[~~which~~] may constitute a violation of this chapter ***occurring***[~~which has arisen~~] in the procurement process. Any employee of the Auditor of Public Accounts, who was appointed to serve as a nonvoting member of the selection committee and who attended any committee proceeding, shall participate in the preparation of a report for filing with the ***Government***[~~Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~] certifying that the applicable procedural provisions of subsections (4), (6), (7), and (8) of KRS 45A.825 were, or were not, met. Before filing the report, the employee or employees who participated in its preparation shall sign it.

(3) The procuring agency shall ***maintain the following information, readily available to the Government***[~~file with the Personal Service~~] Contract Review ***Committee***[~~Subcommittee~~]:

(a) The certificates;

(b) The selection committee's ranking of firms; and

(c) A statement affirming that responding firms in all regions of the Commonwealth were given equal consideration for selection.

Section 8. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve***,*** and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage***,*** or otherwise dispose of or encumber such real property where such use of real property is necessary or

appropriate to the purpose of the Kentucky Housing Corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the ***Government***~~[Personal Service]~~ Contract Review ***Committee***~~[Subcommittee]~~ of the Legislative Research Commission;

(23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation (a) that such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and (b) that such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and

(28) The Kentucky Housing Corporation shall be exempt from the regulations of the Department of Insurance and the laws of the Commonwealth relating thereto.

Section 9. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services by the 1998 Regular Session of the Kentucky General Assembly, the reference to the Cabinet for Human Resources appearing in subsection (12)(f) of Section 1 of this Act shall be codified as the "Cabinet for Families and Children or the Cabinet for Health Services."

HB 562, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.420 is amended to read as follows:

(1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection (3) of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.

(2) (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.

(b) If a member dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.

(3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection (3) of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.

(4) A member, or a retiree who has not commenced drawing retirement benefits pursuant to KRS 21.400, who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated contributions of the member. Absent a designation by the member or retiree, the accumulated contributions shall be paid to the member's estate.

(5) A member who commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the personal contributions of the member, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member. Any offset of contributions by reason of benefits received shall be deducted from the contributions first made to the system. Absent a designation by the member, the accumulated contributions shall be paid to the member's estate.

(6) A member may designate a beneficiary who shall receive the balance of the accumulated contributions of the member, in the event survivor's benefits are being paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior to receiving benefits equal to the member's contributions. In this event, the provisions of subsection (5) of this section shall apply as to offset and payment.

(7) A member may, ***prior to the drawing of benefits***[~~before retirement~~], elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member ***and the member's spouse***. If the member dies after retirement, the option chosen shall prevail over the provisions of subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:

(a) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse.

(b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

If a retiree, living or deceased, chose either of the optional retirement benefit allowances specified in paragraphs (a) or (b) of this subsection from July 15, 1994, to the effective date of this Act, the optional allowance shall be adjusted accordingly, and the new benefit shall commence August 1, 1998. Each recipient of benefits from the plan, who retired from July 15, 1994, to the effective date of this Act, shall have a one-time opportunity to select an optional retirement allowance. The election by the recipient shall be prior to August 1, 1998, at which time the new benefit shall commence. The option chosen shall prevail, subsections (1), (2), and (3) of this section notwithstanding.

Section 2. KRS 21.425 is amended to read as follows:

(1) In any circumstances in which a surviving spouse would be entitled to any allowance under KRS 21.420, but there is no surviving spouse or the surviving spouse subsequently dies, and there is a surviving child or children of the member under the age of ***twenty-one (21)***[~~eighteen (18)~~], the monthly allowance that the surviving spouse would have received or was receiving shall be continued for the benefit of such child or children remaining under the age of ***twenty one (21)***[~~eighteen (18)~~] until there are none under the age of ***twenty-one (21)***[~~eighteen (18)~~].

(2) A member may designate his child or children under the age of ***twenty-one (21)***[~~eighteen (18)~~] to receive the death benefit payable under KRS 21.420 instead of his spouse, or he may designate that his spouse shall receive a percentage of the death benefit, and his child or children under the age of ***twenty-one (21)***[~~eighteen (18)~~] shall receive the remainder. The member making such a choice shall designate his beneficiary or beneficiaries in writing to the manager of the Judicial Form Retirement System on a form provided by the manager.

Section 3. KRS 21.427 is amended to read as follows:

(1) (a) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self-insured basis for a group hospital and medical insurance plan for recipients of a retirement allowance from the Judicial Retirement Plan, and their dependents. For recipients, or dependents, eligible for Medicare coverage, the board shall provide Medicare supplement hospital and medical insurance coverage. For recipients, or dependents, not eligible for Medicare coverage, the board shall provide hospital and medical insurance coverage comparable to that provided under the major state employees' group insurance, and the board may arrange for the recipients to be included in the major state employees group.

(b) For the purpose of this section, the "dependent" of a recipient means the spouse or minor children, or both, of a recipient who is a living former member of the Judicial Retirement Plan, or the minor children of a deceased former member whose surviving spouse is the recipient.

(2) (a) Depending upon the number of months of service credit upon which the retirement allowance was based, and upon there having been at least forty-eight (48) months of judicial service, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid from the judicial retirement fund, as follows:

Months of Judicial Service	Percentage of Premium
240 or more	100%
180 to 239, inclusive	75%
120 to 179, inclusive	50%
48 to 119, inclusive	25%

The foregoing payments shall be made by the fund only if the recipient agrees to pay the remaining, if any, percentage of the premium by deduction from his retirement allowance or by another method equally insuring the payment by him.

(b) Notwithstanding any other statute to the contrary, any member with at least forty-eight (48) months of judicial service who is also eligible for benefits***, or who is receiving benefits from any retirement plan or system administered by the Commonwealth***[~~under KRS 78.510 to 78.852~~] shall be entitled to hospital and medical benefits as described in paragraph (a) of this subsection except that the number of months of service credit used in calculating the level of benefits shall be the sum of service credited to the member in ***all*** the ***state-administered retirement systems or plans***[~~Judicial Retirement System and the County Employees Retirement System~~].

1. Upon request of the member, the Judicial Retirement System shall compute the member's combined service in ***all*** the ***state-administered retirement systems or plans***[~~Judicial Retirement System and the County Employees Retirement System~~] and calculate the portion of the member's premium to be paid by the Judicial Retirement Plan, according to the criteria established in paragraph (a) of this subsection. The

state-administered retirement systems or plans[~~County Employees Retirement System annually~~] shall pay to the Judicial Retirement ***Plan***[~~Fund~~] the ***applicable*** percentage of the ***plan's***[~~fund's~~] cost of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the ***applicable state-administered retirement systems or plans***[~~County Employees Retirement System~~] divided by his total combined service. The amounts paid by ***all*** the ***state-administered retirement systems or plans***[~~Judicial Retirement Fund and the County Employees Retirement System~~] shall not be more than one hundred percent (100%) of the[~~ single~~] premium amount adopted by the respective boards of trustees[~~ or more than the maximum percentage payable under the program established under this section or KRS 61.702~~].

2. A member who elects hospital and medical benefits under this subsection shall lose any claim to insurance benefits under ***any of the other state-administered retirement systems or plans***[~~the County Employees Retirement System described in KRS 61.702, and the election shall be irrevocable~~].

(3) Premiums paid for hospital and medical insurance procured under this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the judicial retirement fund shall not constitute income to the recipient. No commission shall be paid for hospital and medical insurance procured under this section.

Section 4. KRS 6.577 is amended to read as follows:

(1) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Legislators' Retirement Plan. The board may authorize present and future recipients of a retirement allowance from the Legislators' Retirement Plan who are under age sixty-five (65) to be included in the state employees group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the Legislators' Retirement Plan shall contribute to the plan the amount necessary to provide hospital and medical insurance as provided for under this section. The employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of the total employer contribution rate to the Legislators' Retirement Plan.

(3) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund established by KRS 6.575 for all recipients of a retirement allowance from the Legislators' Retirement Plan, if the recipient had two hundred forty (240) months or more of service upon retirement. If the recipient had less than two hundred forty (240) months of service, but at least one hundred thirty-two (132) months of service, fifty-five percent (55%) of the premium shall be paid from the insurance fund plus an additional five percent (5%) of the premium for each year of service beginning with the completion of twelve (12) years of service and continuing through the completion of nineteen (19) years of service. The recipient shall agree to pay by payroll deduction or another method the difference between what is paid from the insurance fund and one hundred percent (100%) of the premium. If the recipient had at least one hundred twenty (120) months of service, fifty percent (50%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. If the recipient had less than one hundred twenty (120) months of service but at least forty-eight (48) months of service, twenty-five percent (25%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. "Months of service" as used in this section shall not include service added to determine disability benefits.

(4) The insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient, or the beneficiary of the recipient, as the fund pays or paid for the member.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(6) Not withstanding any other statute to the contrary, any member with at least forty eight (48) months of legislative service who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in subsection (3) of this section, except that the number of months of service credit used in calculating the level of benefits shall be the sum of the service credited to the member in all the state-administered retirement systems or plans.

(a) Upon request of the member, the Legislators' Retirement Plan shall compute the member's combined service in all the state-administered retirement systems or plans, and calculate the portion of the member's premium to be paid by the Legislators' Retirement Plan, according to the criteria established in subsection (3) of this section. The state-administered retirement systems or plans shall pay to the Legislators' Retirement Plan the applicable percentage of the plan's costs of the retiree's hospital and medical premium which shall be equal

to the percentage of the member's number of months of service in the applicable state-administered retirement system divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.

(b) A member who elects hospital and medical benefits under this section shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

Section 5. KRS 6.525 is amended to read as follows:

The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in KRS 21.345(1) and (3), 21.360(1), 21.370, 21.375, 21.380, 21.385, 21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525, and 61.552 for the Judicial Retirement Plan, except that:

(1) Five (5) years of service as a legislator will be sufficient for vesting; and

(2) A member of the Legislators' Retirement Plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680(2)(a). A member of the Legislators' Retirement Plan may retire at the completion of thirty (30) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the KRS sections listed above to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan.

(3) Any other statute to the contrary notwithstanding, a member of any state-administered retirement system who ***has ceased to quality for membership but subsequently***[~~because of a change of employment moves to another state-administered retirement system and because of another change of employment~~] returns to ***a qualified status***[~~the original state-administered retirement system without a break in service~~], shall, for the purposes of determining the date of entry into the[~~ first~~] state-administered retirement system ***for the subsequent period or periods of service,*** be deemed to have never left the[~~ original~~] retirement system.

The Committee Substitute to **HB 562** is as follows:

AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.420 is amended to read as follows:

(1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection (3) of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.

(2) (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.

(b) If a member dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.

(3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection (3) of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.

(4) A member, or a retiree who has not commenced drawing retirement benefits pursuant to KRS 21.400, who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated contributions of the member. Absent a designation by the member or retiree, the accumulated contributions shall be paid to the member's estate.

(5) A member who commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the personal contributions of the member, may designate a beneficiary who shall receive the balance of the accumulated contributions

of the member. Any offset of contributions by reason of benefits received shall be deducted from the contributions first made to the system. Absent a designation by the member, the accumulated contributions shall be paid to the member's estate.

(6) A member may designate a beneficiary who shall receive the balance of the accumulated contributions of the member, in the event survivor's benefits are being paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior to receiving benefits equal to the member's contributions. In this event, the provisions of subsection (5) of this section shall apply as to offset and payment.

(7) A member may, ***prior to the drawing of benefits***[~~before retirement~~], elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member ***and the member's spouse***. If the member dies after retirement, the option chosen shall prevail over the provisions of subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:

(a) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse.

(b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

If a retiree, living or deceased, chose either of the optional retirement benefit allowances specified in paragraphs (a) or (b) of this subsection from July 15, 1994, to the effective date of this Act, the optional allowance shall be adjusted accordingly, and the new benefit shall commence August 1, 1998. Each recipient of benefits from the plan, who retired from July 15, 1994, to the effective date of this Act, shall have a one-time opportunity to select an optional retirement allowance. The election by the recipient shall be prior to August 1, 1998, at which time the new benefit shall commence. The option chosen shall prevail, subsections (1), (2), and (3) of this section notwithstanding.

Section 2. KRS 21.425 is amended to read as follows:

(1) In any circumstances in which a surviving spouse would be entitled to any allowance under KRS 21.420, but there is no surviving spouse or the surviving spouse subsequently dies, and there is a surviving child or children of the member under the age of ***twenty-one (21)***[~~eighteen (18)~~], the monthly allowance that the surviving spouse would have received or was receiving shall be continued for the benefit of such child or children remaining under the age of ***twenty one (21)***[~~eighteen (18)~~] until there are none under the age of ***twenty-one (21)***[~~eighteen (18)~~].

(2) A member may designate his child or children under the age of ***twenty-one (21)***[~~eighteen (18)~~] to receive the death benefit payable under KRS 21.420 instead of his spouse, or he may designate that his spouse shall receive a percentage of the death benefit, and his child or children under the age of ***twenty-one (21)***[~~eighteen (18)~~] shall receive the remainder. The member making such a choice shall designate his beneficiary or beneficiaries in writing to the manager of the Judicial Form Retirement System on a form provided by the manager.

Section 3. KRS 21.427 is amended to read as follows:

(1) (a) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self-insured basis for a group hospital and medical insurance plan for recipients of a retirement allowance from the Judicial Retirement Plan, and their dependents. For recipients, or dependents, eligible for Medicare coverage, the board shall provide Medicare supplement hospital and medical insurance coverage. For recipients, or dependents, not eligible for Medicare coverage, the board shall provide hospital and medical insurance coverage comparable to that provided under the major state employees' group insurance, and the board may arrange for the recipients to be included in the major state employees group.

(b) For the purpose of this section, the "dependent" of a recipient means the spouse or minor children, or both, of a recipient who is a living former member of the Judicial Retirement Plan, or the minor children of a deceased former member whose surviving spouse is the recipient.

(2) (a) Depending upon the number of months of service credit upon which the retirement allowance was based, and upon there having been at least forty-eight (48) months of judicial service, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid from the judicial retirement fund, as follows:

Months of Judicial Service	Percentage of Premium
240 or more	100%
180 to 239, inclusive	75%
120 to 179, inclusive	50%

48 to 119, inclusive	25%

The foregoing payments shall be made by the fund only if the recipient agrees to pay the remaining, if any, percentage of the premium by deduction from his retirement allowance or by another method equally insuring the payment by him.

(b) Notwithstanding any other statute to the contrary, any member with at least forty-eight (48) months of judicial service who is also eligible for benefits***, or who is receiving benefits from any retirement plan or system administered by the Commonwealth***[~~under KRS 78.510 to 78.852~~] shall be entitled to hospital and medical benefits as described in paragraph (a) of this subsection except that the number of months of service credit used in calculating the level of benefits shall be the sum of service credited to the member in ***all*** the ***state-administered retirement systems or plans***[~~Judicial Retirement System and the County Employees Retirement System~~].

1. Upon request of the member, the Judicial Retirement System shall compute the member's combined service in ***all*** the ***state-administered retirement systems or plans***[~~Judicial Retirement System and the County Employees Retirement System~~] and calculate the portion of the member's premium to be paid by the Judicial Retirement Plan, according to the criteria established in paragraph (a) of this subsection. The ***state-administered retirement systems or plans***[~~County Employees Retirement System annually~~] shall pay to the Judicial Retirement ***Plan***[~~Fund~~] the ***applicable*** percentage of the ***plan's***[~~fund's~~] cost of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the ***applicable state-administered retirement systems or plans***[~~County Employees Retirement System~~] divided by his total combined service. The amounts paid by ***all*** the ***state-administered retirement systems or plans***[~~Judicial Retirement Fund and the County Employees Retirement System~~] shall not be more than one hundred percent (100%) of the[~~ single~~] premium amount adopted by the respective boards of trustees[~~ or more than the maximum percentage payable under the program established under this section or KRS 61.702~~].

2. A member who elects hospital and medical benefits under this subsection shall lose any claim to insurance benefits under ***any of the other state-administered retirement systems or plans***[~~the County Employees Retirement System described in KRS 61.702, and the election shall be irrevocable~~].

(3) Premiums paid for hospital and medical insurance procured under this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the judicial retirement fund shall not constitute income to the recipient. No commission shall be paid for hospital and medical insurance procured under this section.

Section 4. KRS 6.577 is amended to read as follows:

(1) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Legislators' Retirement Plan. The board may authorize present and future recipients of a retirement allowance from the Legislators' Retirement Plan who are under age sixty-five (65) to be included in the state employees group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the Legislators' Retirement Plan shall contribute to the plan the amount necessary to provide hospital and medical insurance as provided for under this section. The employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of the total employer contribution rate to the Legislators' Retirement Plan.

(3) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund established by KRS 6.575 for all recipients of a retirement allowance from the Legislators' Retirement Plan, if the recipient had two hundred forty (240) months or more of service upon retirement. If the recipient had less than two hundred forty (240) months of service, but at least one hundred thirty-two (132) months of service, fifty-five percent (55%) of the premium shall be paid from the insurance fund plus an additional five percent (5%) of the premium for each year of service beginning with the completion of twelve (12) years of service and continuing through the completion of nineteen (19) years of service. The recipient shall agree to pay by payroll deduction or another method the difference between what is paid from the insurance fund and one hundred percent (100%) of the premium. If the recipient had at least one hundred twenty (120) months of service, fifty percent (50%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. If the recipient had less than one hundred twenty (120) months of service but at least forty-eight (48) months of service, twenty-five percent (25%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. "Months of service" as used in this section shall not include service added to determine disability benefits.

(4) The insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient, or the

beneficiary of the recipient, as the fund pays or paid for the member.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(6) Not withstanding any other statute to the contrary, any member with at least forty eight (48) months of legislative service who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in subsection (3) of this section, except that the number of months of service credit used in calculating the level of benefits shall be the sum of the service credited to the member in all the state-administered retirement systems or plans.

(a) Upon request of the member, the Legislators' Retirement Plan shall compute the member's combined service in all the state-administered retirement systems or plans, and calculate the portion of the member's premium to be paid by the Legislators' Retirement Plan, according to the criteria established in subsection (3) of this section. The state-administered retirement systems or plans shall pay to the Legislators' Retirement Plan the applicable percentage of the plan's costs of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement system divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.

(b) A member who elects hospital and medical benefits under this section shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

Section 5. KRS 6.525 is amended to read as follows:

The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in KRS 21.345(1) and (3), 21.360(1), 21.370, 21.375, 21.380, 21.385, 21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525, and 61.552 for the Judicial Retirement Plan, except that:

(1) Five (5) years of service as a legislator will be sufficient for vesting; and

(2) A member of the Legislators' Retirement Plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680(2)(a). A member of the Legislators' Retirement Plan may retire at the completion of thirty (30) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the KRS sections listed above to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan.

(3) Any other statute to the contrary notwithstanding, a member of any state-administered retirement system who ***has ceased to qualify for membership but subsequently***~~[because of a change of employment moves to another state-administered retirement system and because of another change of employment]~~ returns to ***a qualified status***~~[the original state-administered retirement system without a break in service]~~, shall, for the purposes of determining the date of entry into the~~[first]~~ state-administered retirement system ***for the subsequent period or periods of service,*** be deemed to have never left the~~[original]~~ retirement system.

Section 6. KRS 6.515 is amended to read as follows:

(1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase of military service credit pursuant to subsection (2) of this section, or by transfer of credit as provided in subsection (6) of this section.

(2) (a) ***1.*** Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question pursuant to KRS 6.520. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit

in the Legislators' Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on the assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the legislator in question pursuant to KRS 6.520. Service credit awarded as provided in this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 6.505(2).

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 6.505(2).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, pursuant to this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions pursuant to KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (2) of this section.

(6) A member who has qualified for benefits pursuant to KRS 6.525(1) may transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems. If the member elects to transfer his service credit, the system from which the transfer is made shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the system from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 6.520, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. The member may pay by lump sum or by increments, as provided for in subsection (2)(b) of this section, but an installment contract shall not extend for more than sixty (60) months. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 6.505(2).

Section 7. KRS 21.370 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any

benefits unless the person was the spouse of the member at the time he retired.

(2) A member who has qualified for benefits pursuant to this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems, and he may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in the Kentucky Legislators' Retirement Plan. If the member elects to transfer his service credit, the system or plan from which the transfer is made shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the system or plan from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 21.400, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Judicial Retirement Plan, as determined by the actuary for the Judicial Retirement Plan. The member may pay by lump sum or by increments as set forth in KRS 6.515(2)(b), but an installment contract shall not extend for more than sixty (60) months. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 21.360(6).

(3) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan pursuant to subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years for his period of service as a city police judge for a city within the Commonwealth of Kentucky, if the service was performed prior to the first Monday in January, 1978, and if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records of the city for which the service was performed. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question pursuant to KRS 21.400. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 21.360(6).

(4) (a) ***1.*** Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan pursuant to subsection (1) of this section or KRS 21.375, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question pursuant to KRS 21.400. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question as provided in KRS 21.400. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 21.360(6).

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 21.360(6).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

HB 633, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;
(b) Certification and selection of eligibles;
(c) Classification and compensation plans;
(d) Incentive programs;
(e) Layoffs;
(f) Registers;
(g) Types of appointments;
(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985***; and***
(i) Employee evaluations.

(2) The commissioner shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the commissioner shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The commissioner may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Department of Personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the commissioner shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner;

(c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities ***assigned***[~~assumed~~], so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class;

1. The commissioner shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The commissioner shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

2. The secretary of the Finance and Administration Cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the Finance and Administration Cabinet on the basis of the availability of funds. The Finance and Administration Cabinet shall notify the department of any review and approval conducted under the provisions of this section;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the secretary of the Finance and Administration Cabinet. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates;[~~ and~~]

3. The state's financial resources***; and***

4. The plan may also authorize provisions for a performance award to individual employees based on generation of federal funds under federal programs which create performance incentives.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio, and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the commissioner for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(i) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(j) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(k) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility ***and pilot programs as authorized by this chapter***;[~~ and~~]

(l) ***For a system of employee evaluation for the classified service which shall include:***

1. An annual review of employee performance and conduct to be conducted by the employee's supervisor after the employee and supervisor have met two (2) times per year to establish and review performance and job expectations;

2. The assignment of a numerical rating in each area of performance review and an overall rating from "outstanding" to "unacceptable";

3. Reconsideration by the supervisor and review of the rating by the second-line supervisor if requested in writing by the employee;

4. A system for peer review and recommendation to the appointing authority of the supervisory rating, if requested in writing by the employee; and

5. Provisions governing an appeal to the Personnel Board from a final decision by the appointing authority where the employee has received a rating of "unacceptable"; and

(m) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 2. KRS 18A.405 is amended to read as follows:

(1) There is created a Personnel ***Pilot*** Steering Committee which shall be attached to the ***Department of Personnel***[~~Finance and Administration Cabinet~~] for administrative purposes. The Department of Personnel shall provide technical assistance and support services to the committee.

(2) The membership of the Personnel ***Pilot*** Steering Committee shall be appointed by the Governor and shall consist of:

(a) ***One (1) member***[~~Two (2) members~~] from the ***former Personnel Steering Committee and one (1) member from a list of three (3) candidates proposed by the chief project officer for "Empower Kentucky"***[~~Governor's Commission on Quality and Efficiency established by Executive Order 93-282. At least one (1) of these members shall also be a member of the Career Service System Task Force created by Executive Order 93-1139~~];

(b) Two (2) members from ***the*** private ***business sector***[~~industry, at least one of whom shall also be a member of Career Service System Task Force~~];

(c) One (1) employee with status who has at least ten (10) years of experience in an Executive Department agency other than the Department of Personnel;

(d) One (1) employee with status in a management classification in an Executive Department agency other than the Department of Personnel;

(e) Two (2) Department of Personnel employees[~~ with status~~] who have personnel system experience; and

(f) One (1) member who is either a member of the Personnel Board, or a member of its staff.

(3) No less than four (4) nor more than six (6) of the persons appointed to serve on the Personnel ***Pilot*** Steering Committee shall be employees with status under this chapter.

(4) The employees with status under this chapter who are appointed ***pursuant to subsections (1)(c) and (1)(d) of this section*** to the Personnel ***Pilot*** Steering Committee shall be appointed by the Governor from lists provided by state employee organizations as set forth in this subsection. Any state employee organization having at least two hundred fifty (250) members as of January 1, ***1998***[~~1994~~], may submit the names of two (2) employees with status to the Governor on or before fifteen (15) days after July 15, ***1998***[~~1994~~]. The Governor shall select the appointees from a list that is comprised of names of employees submitted by all of the state employee organizations as provided by this subsection which have been compiled into a single list.

(5) The committee's chairman shall be elected by and from the members of the committee for a one (1) year term at the first meeting of the committee and annually thereafter.

(6) If they are not reimbursed by a state agency in which they are employed, Personnel ***Pilot*** Steering Committee members shall be reimbursed for travel to meetings at the established state rate for travel expenses from the budget of the ***Department of Personnel***[~~Finance and Administration Cabinet~~].

Section 3. KRS 18A.410 is amended to read as follows:

The Personnel ***Pilot*** Steering Committee shall:

(1) Oversee all Executive Department pilot personnel programs, including the selection of the organizational units authorized to participate in a pilot personnel program;

(2) Monitor and evaluate all Executive Department pilot personnel programs;

(3) Prepare status reports;

(4) Prepare a final report ***upon the conclusion of individual pilot programs***; ***and***

(5) Make recommendations ***based upon pilot project experience to the commissioner of the Department of Personnel*** for legislation to the[~~ 1996 and 1998~~] Regular Sessions of the Kentucky General Assembly[~~; and~~

~~(6) Report at least quarterly to the Legislative Research Commission's Interim Joint Committee on Appropriations and Revenue. This report shall include the amount of money saved by the pilot personnel programs and how the money was or is to be spent~~].

Section 4. KRS 18A.420 is amended to read as follows:

Within thirty (30) days of July 15, ***1998***[~~1994~~], the Personnel ***Pilot*** Steering Committee shall begin accepting applications for pilot personnel programs from organization units within eligible Executive Department agencies. Prior to final approval of a pilot program, the committee shall consult with the commissioner of the Department of Personnel. After consulting with the commissioner, the committee shall make its final selections[~~ and report them to the Career Service System Task Force~~]. Upon notification by the steering committee, the commissioner of the Department of Personnel shall take any administrative action deemed necessary to accomplish the implementation of the selected programs.

Section 5. KRS 18A.425 is amended to read as follows:

(1) Each pilot agency shall prepare and submit ***semi-annual***[~~quarterly~~] reports to the Personnel ***Pilot*** Steering Committee. The committee shall review the reports and send them on to the Governor, the Interim Joint Committee on State Government, and the Legislative Research Commission.

(2) The Personnel ***Pilot*** Steering Committee itself shall submit a comprehensive report to the ***commissioner of the Department of Personnel and the*** Governor at least sixty (60) days prior to ***each***[~~the 1996 and 1998~~] Regular ***Session***[~~Sessions~~] of the Kentucky General Assembly. This report shall give the status of the pilot personnel programs and procedures utilized by the Executive Department personnel system.

Section 6. KRS 18A.430 is amended to read as follows:

(1) (a) The pilot agency shall develop a comprehensive employment manual establishing conditions of employment for employees in each organizational unit. Each manual shall be approved by the Personnel ***Pilot*** Steering Committee prior to the implementation of its pilot personnel program. It shall specify the terms and conditions of employment for employees of each organizational unit.

(b) The employment manual shall be promulgated by administrative regulation pursuant to the provisions of KRS Chapter 13A and shall contain a clear explanation of the statutes governing employee actions relating to dismissal, suspension, disciplinary fine, layoff, or status, and the reasons employee actions may be taken.

(c) The head of the agency in which the pilot program is located shall be responsible for preparing and submitting the administrative regulations required by this section to the ***commissioner of the Department of Personnel***[~~secretary of the Finance and Administration Cabinet~~] for promulgation pursuant to KRS Chapter 13A.

(d) Policies relating to specific implementation of the pilot personnel program, other than conditions of employment, shall be exempt from the provisions of KRS Chapter 13A and shall be explained in detail in the reports required by KRS 18A.410.

(e) For purposes of the approved pilot programs, only those sections of this chapter relating to the subject of the pilot programs shall be suspended and in no event shall the following sections be suspended: KRS 18A.095 relating to the rights of executive department employees and the prohibition of ex parte communications, KRS 18A.113 relating to general lay-off rules, KRS 18A.1131 relating to lay-off rules applicable to classified employees only, KRS 18A.1132 relating to lay-off rules applicable to both classified and unclassified employees, KRS 18A.130 relating to reemployment of career employees terminated on or after January 1, 1980, and KRS 18A.135 relating to the reemployment of career employees.

(2) A pilot personnel program shall:

(a) Become effective upon completion of the administrative regulatory procedure established by KRS Chapter 13A and subsection 1 of this section; and

(b) Expire no later than ***three (3) years after implementation***[~~July 15, 1998,~~] unless the expiration date is extended by ***administrative regulation***[~~statute~~].

Section 7. KRS 18A.435 is amended to read as follows:

An employee in a pilot program may submit a request to the commissioner of the Department of Personnel for transfer to another state position if a vacancy in that position exists.[~~ The commissioner shall make every effort to accommodate this request.~~]

Section 8. KRS 18A.440 is amended to read as follows:

(1) The Personnel ***Pilot*** Steering Committee shall consider organizational units for the pilot personnel program based on the

following:

(a) The advantage gained by the organizational unit in the fulfillment of its statutory mission and improved service to the taxpayer;

(b) The program goals and objectives which would operate to create a high performance workplace~~[as outlined in the first report of the Governor's Commission on Quality and Efficiency,]~~ which may include:

1. Increased employee involvement;
2. Continuous improvement of operating systems and customer services;
3. Decision-making at all levels of the organization;
4. Manager and employee training in high involvement skills;
5. Defined measures that recognize success; and
6. Improved means of lawful employee negotiations.

(c) The method by which the organizational unit would identify benchmarks for the measurement of the effectiveness of the pilot program, including periodic employee and customer evaluations of the pilot program;

(d) Evidence of support for the pilot program by a majority of the employees to be involved in the proposed pilot program ***as determined by a***~~[. The]~~ Governmental Services Center~~[shall develop a]~~ survey ***which shall***~~[to]~~ measure employee support for the proposed pilot programs. In organizational units for which pilot programs are considered, the Governmental Services Center shall also devise a process which insures confidentiality in the administration of and the tabulation of the results of the survey; and

(e) Additional information which may be requested by the Personnel ***Pilot*** Steering Committee to consider an agency's application, including but not limited to:

1. Training plans for managers and employees;
2. Identification of fiscal and personnel resources; and
3. A proposed agency coordinator for the project.

(2) The Personnel ***Pilot*** Steering Committee's recommendation of organizational units for the pilot personnel programs shall not affect more than fifteen percent (15%) of the permanent, full-time state employees employed as of July 15, ***1998***~~[1994]~~, except as provided in KRS 18A.450.

SECTION 9. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the Department of Personnel, on the recommendation of the Personnel Pilot Steering Committee, may extend those portions of pilot programs which were developed and approved for the purpose of maintaining a pool of available applicants for social services programs and the alternative classification and pay system until December 15, 1998;

(2) Those portions of pilot programs in effect July 1, 1998, dealing with performance evaluation may continue until January 1, 1999, at which time the performance evaluation system authorized by this chapter shall be adopted by all agencies subject to KRS Chapter 18A.

Section 10. The following KRS section is repealed:

18A.112 Performance evaluations.

18A.445 Use of savings attributed to agency's pilot personnel program -- Authority for administrative regulations.

HB 639, AN ACT relating to financing of energy savings projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The head of each of the three (3) branches of government shall include in the branch budget recommendation and in the draft branch budget bill for his branch submitted to each regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1994, and for each biennium thereafter, a recommended state capital projects program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

1. The agency and purpose for which it will be used;

2. The justification for the project;
3. Its estimated completion date;
4. The total estimated cost of completing the project;
5. The estimated cost of the project during the biennium;
6. The recommended sources of funds for the entire project; and
7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6., and 7. of subsection (2)(b) of this section.

(4) A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund, and for any affected restricted fund account.

(5) Information in the report shall include, but not be limited to, the following:
(a) Debt service on existing appropriation-supported debt as a percent of anticipated total revenues;
(b) Debt service on existing appropriation-supported debt as a percent of anticipated available revenues;
(c) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated total revenues;
(d) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated available revenues;
(e) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of estimated state total personal income; and
(f) The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percent of estimated state total personal income.

(6) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly, except as provided in this section, KRS 45.770, and 45.780.

(7) The recommended program for the purchase of major items of equipment, submitted by the head of each of the three (3) branches of government, shall include:
(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and
(b) For each major item of equipment:
1. The agency and purpose for which it will be used;
2. The justification for the purchase;
3. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;
4. The recommended sources of funds; and
5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(8) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.

(9) When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the Capital Projects Program. General fund moneys appropriated for that project or item of equipment but not allotted, and general fund moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency or federal funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund. Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.

(10) Projects and major items of equipment disapproved under subsection (9) of this section shall be terminated.

(11) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly and authorizing the purchase, except as provided in subsections (12) and (13) of this section and in KRS 45.770 and 45.780.

(12) A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report enacted for the current biennium, subject to the following conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(13) Moneys from any source may be transferred to the allotment account of any capital project authorized by the General Assembly under this section, subject to the following conditions and procedures:

(a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:

1. The source of funds is private or federal; or

2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the capital project.

(c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.

(d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:

1. Paid for out of private or federal funds; or

2. Required by an unforeseen decision by a federal or state court or regulatory agency; and

3. Not allotted or reallotted from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and

4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

(e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.

(14) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account ***or, if the purpose of the project or equipment is to reduce energy costs, the relevant entity head certifies projected energy cost savings associated with the project or equipment are reasonable and sufficient to pay fifty percent (50%) of the equipment or the project costs***;

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and

(c) The relevant entity head, or his designee, shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(15) The capital construction and equipment purchase contingency fund may be used to advance funds to projects authorized to be financed by bonds, to finance feasibility studies for projects which may be contemplated for future funding, or to audit the capital projects program when authorized by the General Assembly.

(16) On or before October 1, each of the three (3) branches of government shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

1. The project phase;

2. The project account number, project name, and any other term employed to identify the project or major item of equipment;

3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;

4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;

5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;

6. Total expenditure on the project or major item of equipment;

7. The current estimated completion cost, including the amount required for annual inflation; and

8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

Section 2. KRS 45A.345 is amended to read as follows:

As used in KRS 45A.343 to 45A.460, unless the context indicates otherwise:

(1) "Aggregate amount" shall mean the total dollar amount during a fiscal year of items of a like nature, function, and use the need for which can reasonably be determined at the beginning of the fiscal year. Items the need for which could not reasonably be established in advance or which were unavailable because of a failure of delivery need not be included in the aggregate amount.

(2) ***"Capital cost avoidance" means moneys expended by a local public agency to pay for an energy conservation measure identified as a permanent equipment replacement and whose cost has been discounted by any additional energy and operation savings generated from other energy conservation measures identified in the guaranteed energy savings contract, except that for school districts capital cost avoidance shall also mean moneys expended by the district from one or more of the following sources:***

(a) General fund;

(b) Capital outlay allotment under Section 9 of this Act; and

(c) State and local funds from the Facilities Support Program of Kentucky under Section 10 of this Act.

(3) "Chief executive officer" shall mean the mayor, county judge/executive, superintendent of schools, or the principal administrative officer of a local public agency, or the person designated by the chief executive officer or legislative body of the local public agency to perform the procurement function.

(4)[~~(3)~~] "Construction" shall mean the process of building, altering, repairing, or improving any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

(5)[~~(4)~~] "Contract" shall mean all types of local public agency agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing. It does not include labor contracts with employees of local public agencies.

(6)[~~(5)~~] "Established catalogue price" shall mean the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item; and

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(7)[~~(6)~~] "Evaluated bid price" shall mean the dollar amount of a bid after bid price adjustments are made pursuant to objective measurable criteria, set forth in the invitation for bids, which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, residual value, and time of delivery, performance, or completion.

(8)[~~(7)~~] "Invitation for bids" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.365.

(9)[~~(8)~~] "The legislative body or governing board" shall mean a council, commission, or other legislative body of a city or urban-county; a county fiscal court; board of education of a county or independent school district; board of directors of an area development district or special district; or board of any other local public agency.

(10)[~~(9)~~] "Local public agency" shall mean a city, county, urban-county, school district, special district, or an agency formed by a combination of such agencies under KRS Chapter 79, or any department, board, commission, authority, office, or other sub-unit of a political subdivision which shall include the offices of the county clerk, county sheriff, county attorney, coroner, and jailer.

(11)[~~(10)~~] "May" shall mean permissive. However, the words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.

(12)[~~(11)~~] "Negotiation" shall mean contracting by either the method set forth in KRS 45A.370, 45A.375, or 45A.380.

(13)[~~(12)~~] "Noncompetitive negotiation" shall mean informal negotiation with one (1) or more vendor, contractor, or individual without advertisement or notice.

(14)[~~(13)~~] "Objective measurable criteria" shall mean sufficient information in the invitation to bid as to weight and method of evaluation so that the evaluation may be determined with reasonable mathematical certainty. Criteria which are otherwise subjective such as taste and appearance may be established when appropriate.

(15)[~~(14)~~] "Person" shall mean any business, individual, union, committee, club, or other organization or group of individuals.

(16)[~~(15)~~] "Procurement" shall mean the purchasing, buying, renting, leasing, or otherwise obtaining any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(17)[~~(16)~~] "Request for proposals" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.370, 45A.375, 45A.380, or 45A.385.

(18)[~~(17)~~] "Responsible bidder or offeror" shall mean a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(19)[~~(18)~~] "Responsive bidder" shall mean a person who has submitted a bid under KRS 45A.365 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

(20)[~~(19)~~] "Services" shall mean the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product other than reports which are merely incidental to the required performance of service. It does not include labor contracts with employees of local public agencies.

(21)[~~(20)~~] "Shall" shall mean imperative.

(22)[~~(21)~~] "Specifications" shall mean any description of a physical or functional characteristic of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(23)[~~(22)~~] "Supplemental agreement" shall mean any contract modification which is accomplished by the mutual action of the parties.

(24)[~~(23)~~] "Supplies" shall mean all property, including but not limited to leases on real property, printing, and insurance, except land or a permanent interest in land.

(25)[~~(24)~~] "Energy ***conservation***[~~efficiency~~] measure" means a training program or facility alteration designed to reduce energy consumption or operating costs, and may include one (1) or more of the following:

(a) Insulation of the building structure or systems within the building;

(b) Storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(c) Automated or computerized energy control systems;

(d) Heating, ventilating, or air conditioning system modifications or replacements;

(e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(f) Energy recovery systems;

(g) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(h) Energy conservation measures that provide long-term operating cost reductions; or

(i) Any life safety measures that provide long-term operating cost reductions.

(26)[~~(25)~~] "Guaranteed energy savings contract" means a contract for the evaluation and recommendation of energy conservation measures and for implementation of one (1) or more of those measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the savings are guaranteed to the extent necessary to make payments for ***the cost of the design, installation, and maintenance of energy conservation measures***[~~the systems~~].

(27)[~~(26)~~] "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy ***conservation***[~~efficiency~~] measures and is determined to be qualified by the local public agency. ***The qualified provider shall be responsible for and shall provide the local public agency with the following information regarding guaranteed energy savings contracts:***

(a) Project design and specifications;

(b) Construction management;

(c) Construction;

(d) Commissioning;

(e) On-going services as required;

(f) Measurement and verification of savings for guaranteed energy savings contracts; and

(g) Annual reconciliation statements as provided in subsection (8) of Section 3 of this Act.

Section 3. KRS 45A.352 is amended to read as follows:

(1) A local public agency may enter into a guaranteed energy savings contract for innovative solutions for energy ***conservation***[~~efficiency~~] measures. The local public agency shall submit a request for proposals. The request for proposals ***for competitive procurement of guaranteed energy savings contracts*** shall include the following:

(a) The name and address of the governmental unit;

(b) The name, address, title, and phone number of a contact person;

(c) Notice indicating that the local public agency is requesting qualified providers to propose energy ***conservation***[~~efficiency~~] measures through a guaranteed energy savings contract;

(d) The ***following*** evaluation criteria for assessing the proposals***:***

1. Construction management capabilities;

2. Technical approach to facilities included;

3. Financial attributes, as defined by total cost of contract and guaranteed savings and provider's financial strength demonstrating ability to fulfill the guarantee term; and

4. Provider's capability, personnel, track record, and demonstrated ability to accomplish the contract;

(e) The date, time, and place where proposals must be received;[~~ and~~]

(f) Any other stipulations and clarifications the local public agency may require***; and***

(g) An overview prepared by the local public agency stating goals or objectives specific to facility needs to be considered by the qualified providers who are responding to the request. Detailed scope of construction is not required.

(2) Respondents to the request for proposal shall provide the following:

(a) A detailed list of the proposed energy conservation measures and the guaranteed savings which shall be supported with calculations. Any guaranteed energy and operational savings shall be determined by using one of the measurement and verification methodologies listed in the United States Department of Energy's "Measurement and Verification Guideline for Federal Energy Projects" or in the "North American Energy Measurement and Verification Protocol." If due to existing data limitations or the nonconformance of

specific project characteristics, none of the methods listed in either the United States Department of Energy's "Measurement and Verification Guideline for Federal Energy Projects" or in the "North American Energy Measurement and Verification Protocol" is sufficient for measuring guaranteed savings, the qualified provider shall develop an alternate method that is compatible with one of the two;

(b) The estimated cost of the proposed energy conservation measures including engineering, construction, commissioning, measurement and verification, annual reconciliation statements, and required on-going services; and

(c) Proposed method and costs of financing.

(3) The value for total cost of the contract minus the calculated savings from the energy conservation measures listed in the qualified provider's proposal, shall be within fifteen percent (15%) of the value for the total cost of the contract minus the calculated savings after the final contract has been negotiated. If the difference between the proposed and the final contract is not within fifteen percent (15%) and the local public agency and the qualified provider are unable to renegotiate the final contract to reconcile the difference between the proposed and final contract values, then the local public agency may:

(a) Stop negotiations with the current qualified provider; and

(b) Select an alternate provider.

(4) The local public agency may, as a component of the request for proposal, solicit and negotiate additional maintenance services for the affected proposed energy conservation measures. Additional services shall be subject to budget appropriations on an annual basis and may be discontinued at any time over the guarantee period with no negative impact to the guaranteed savings contract.

(5) The local public agency shall utilize the request for proposal process to enter into a guaranteed energy savings contract. The local public agency may, at its discretion, utilize a request for qualifications, provided that the local public agency solicits qualification statements from multiple potentially qualified providers. The local public agency shall use the qualification statements to select no fewer than two (2) providers and each provider shall then be subject to the request-for-proposal requirement provided in subsections (1) to (4) of this section.

(6)[~~(2)~~] The local public agency shall select the provider best qualified to meet its needs. The local public agency shall provide public notice of the meeting at which it proposes to award a guaranteed energy savings contract, the name of the parties to the proposed contract, and the purpose of the contract. The public notice shall be made at least ten (10) days prior to the meeting. After reviewing the proposals, a local public agency may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy *conservation*[~~efficiency~~] measures recommended in the proposal would not exceed the amount to be saved in either energy or operational costs *plus capital cost avoidance*[~~, or both,~~] within *the term of the contract*[~~a ten (10) year period~~] from the date of installation, if the recommendations in the proposal are followed.

(7)[~~(3)~~] The guaranteed energy savings contract shall include a written guarantee of the qualified provider that either the energy or operational costs savings *plus capital cost avoidance*[~~, or both,~~] will meet or exceed the costs of the energy *conservation*[~~efficiency~~] measures within *the term of the contract*[~~ten (10) years~~]. The qualified provider shall*, on an annual basis,* reimburse the local public agency for any shortfall in guaranteed energy savings projected in the contract. A qualified provider shall provide a sufficient bond to the local public agency for the installation and the faithful performance of all the measures included in the contract. The guaranteed energy savings contract may provide for payments over a period of time, not to exceed *the term of the contract*[~~ten (10) years~~].

(8) The qualified provider shall provide the local public agency with an annual reconciliation statement. The statement shall disclose any shortfalls or surplus between guaranteed energy and operational savings specified in the guaranteed energy savings contract and actual energy and operational savings incurred during a given guarantee year. The guarantee year shall consist of a twelve (12) month term commencing from the time that the energy conservation measures became fully operational. The qualified provider shall pay the local public agency any short fall in the guaranteed energy and operation savings within thirty (30) days after the total year savings have been determined. If there is a surplus in the actual guaranteed energy and operational savings, then the surplus shall not be carried forward and applied against possible savings shortfalls in any future guarantee year. If the qualified provider pays the local public agency for a short fall in energy or operational savings incurred during a given guarantee year and there is a surplus in energy or operational savings in future guarantee years, the qualified provider shall bill the local public agency for an amount not to exceed the amount of the short fall in the given guarantee year.

(9) The use of capital cost avoidance shall be subject to the following restrictions:

(a) The amount expended shall not exceed fifty percent (50%) of the project cost; and

(b) Capital cost avoidance shall be restricted to payment for permanent equipment replacement as follows:

1. Storm windows or doors, multiglazed windows or doors, additional glazing, and reduction in glass area;

2. Replacement of heating, ventilating, or air conditioning major components or systems;

3. New lighting fixtures where required to achieve Illuminating Engineering Society of North America (IES) standards, provided the existing light fixtures shall have been determined to be obsolete and incapable of achieving IES standards; and

4. Life safety system replacements or upgrades which shall have been determined to be necessary to conform with existing state and local codes and standards.

(10) The chief state school officer shall review, and approve or disapprove projects from local school districts relating to energy conservation measures under a guaranteed energy savings contract, on the basis of the following guidelines:

(a) The project design's compliance with technical, health, and safety standards as required by administrative regulation;

(b) The availability of general funds, capital outlay allotments under Section 9 of this Act or local and state funds from the Facilities Support Program of Kentucky as provided by Section 10 of this Act, for projects that will use capital cost avoidance;

(c) The appropriate use of capital outlay allotments under Section 9 of this Act, local and state funds from the Facilities Support Program of Kentucky as provided by Section 10 of this Act, for projects using capital cost avoidance, based on the project's compliance with the district's approved facility plan;

(d) The funding capability of the school district; and

(e) The financing mechanism and proper financing documentation.

(11) The request for proposal as provided in subsections (1) to (4) of this section shall be deemed to satisfy the requirements set out in KRS 162.070, and shall not be subject to an award determination based on the lowest competitive bid or a separate bidding process for each energy conservation measure listed in the proposal.

Section 4. KRS 45A.353 is amended to read as follows:

(1) Guaranteed energy savings contracts may extend beyond the fiscal year in which they become effective. The local public agency shall include in its annual budget and appropriations act, for each subsequent fiscal year, any accounts payable under guaranteed energy savings contracts during the fiscal year.

(2) The local public agency shall document the operational and energy cost savings ***and capital cost avoidance*** specified in the guaranteed energy savings contract and designate and appropriate that amount for an annual payment of the contract. If the annual energy and operational savings are less than projected under the guaranteed savings contract, the qualified provider shall pay the difference as provided for in KRS 45A.352.

(3) Notwithstanding any other provisions of law to the contrary, a local public agency may ***finance the***[~~enter into a lease-purchase agreement with the qualified provider for the purchase and~~] installation of energy ***conservation***[~~efficiency~~] measures for its buildings ***through a lease-purchase agreement, bonds, or whichever brings the most economic value to the local public agency***, subject to the local public agency's compliance with all other laws regarding approval of plans for additions, alterations, or renovations of its buildings.

(4) The component which is guaranteed as energy savings and as operational savings shall be exempt from current or future debt limitations, except that capital cost avoidance, as defined in Section 2 of this Act, shall be limited to current or future debt limitations.

Section 5. KRS 56.774 is amended to read as follows:

(1) The Energy Efficiency Program for State Government Buildings shall provide for implementation of low cost/no cost energy ***conservation***[~~efficiency~~] measures, engineering analyses, energy ***conservation***[~~efficiency~~] measures, building improvements, and monitoring of results for state-owned buildings.

(2) Any engineering analysis conducted on a state-owned building shall assess the energy efficiency of the building and make recommendations for improving the efficient use of energy within the building. The analyses shall be performed by qualified engineers, architects, or other persons trained in energy efficiency who ***may***[~~shall~~] be employees of the Finance and Administration Cabinet or employed pursuant to KRS Chapter 45A***, except that any engineers, architects or other persons trained in energy efficiency and retained under a guaranteed energy savings contract, shall not be subject to the provisions of KRS 45A.800 to 45A.835***.

(3) Except as provided in subsection (5) of this section, measures to improve the energy efficiency of a state-owned building***,*** which have an aggregate simple payback period of five (5) years or less***,*** shall be implemented as general fund appropriations become available. No more than five percent (5%) of the cost of energy efficiency measures for a building may be utilized for monitoring the results.

(4) If general fund appropriations are available for energy efficiency improvements, the Finance and Administration Cabinet

shall prioritize projects among the various state-owned buildings to determine which projects shall be implemented to best utilize the available funding.

(5) If general fund appropriations are unavailable, energy ***conservation***[~~efficiency~~] measures for a state-owned building may be financed by other means. These other means include, but are not limited to, energy performance contracts and guaranteed energy savings contracts ***entered into pursuant to KRS 45A.085 and KRS 45A.045(10). Energy performance contracts and guaranteed energy savings contracts shall not be subject to the provisions of KRS 45A.800 to 45A.835***. These energy ***conservation***[~~efficiency~~] measures shall not be limited to those which have an aggregate simple payback period of five (5) years or less, but shall result in reasonable economic benefit to the Commonwealth. Ownership of the energy ***conservation***[~~efficiency~~] measures shall remain with the Commonwealth. Energy cost savings may be used to repay the cost of the other means used to finance energy ***conservation***[~~efficiency~~] measures, with any remaining savings ***paid to the Finance and Administration Cabinet to reimburse the cabinet for all its expenses related to the energy conservation measure, including but not limited to, staff time for monitoring, overseeing, and managing the project. Remaining savings shall***[~~to~~] be deposited in the state agency account. All energy cost savings estimated under an energy performance contract or guaranteed energy savings contract shall be guaranteed to the Commonwealth.

Section 6. KRS 58.600 is amended to read as follows:

As used in KRS 58.600 to ***58.610***[~~58.615~~], unless the context requires otherwise:

(1) "Energy conservation revenue bonds" or "bonds" means securities issued by a ***local public***[~~governmental~~] agency in accordance ***with***[~~to~~] the provisions of KRS 58.600 to ***58.610***[~~58.615~~] to pay for energy conservation ***measures under guaranteed energy savings contracts***[~~projects~~];

(2)[~~"Debt service payments" means payments made either directly or in the form of lease payments by a governmental agency on an annual basis to meet the principal and interest requirements of energy conservation revenue bonds;~~]

~~(3) "Energy audit" means an audit conducted by an architect, engineer, or construction manager for a proposed energy conservation project including an analysis of the costs and benefits and an estimate of energy cost savings resulting from the project;~~

~~(4)~~] "Energy conservation ***measure***[~~project~~]" means a facility alteration designed to reduce energy consumption or operating costs, and may include one (1) or more of the following:

(a) Insulation of building structure or systems within buildings;

(b) Storm windows or doors, caulking or weatherstripping, multiple pane windows or doors, heat absorbing or heat reflective glazing for windows and doors, additional glazing, reductions in glass area or other window and door systems modifications that reduce energy consumption;

(c) Automated or computerized energy control systems;

(d) Heating, ventilating, or air conditioning system modifications or replacements;

(e) Replacement or modification of lighting fixtures to increase energy efficiency of the lighting system without increasing the overall illumination of the building, unless an increase in illumination is necessary to conform to applicable state or local building codes for the lighting system after the proposed modifications are made;

(f) Energy recovery systems;

(g) Cogeneration systems that produce steam or forms of energy such as heat as well as electricity for use primarily within a building or complex of buildings;

(h) Energy conservation measures that provide long-term operating cost reductions; or

(i) Any life safety measures that provide long-term operating cost reductions;

(3) "Local public agency" means a city, county, charter county, urban-county, school district, special district, or an agency formed by a combination of these agencies under KRS Chapter 79;

(4) "Capital cost avoidance" has the same definition as in subsection (2) of Section 2 of this Act; and

(5) "Guaranteed energy savings contract" has the same definition as in subsection (26) of Section 2 of this Act.

[~~(5) "Governmental agency" means any county, urban-county government, charter county government, city, taxing district, special district, school district, other political subdivision of the Commonwealth, or instrumentality of any of the above;~~

~~(6) "Principal amount" means that amount of energy conservation revenue bonds which may be issued for one (1) energy conservation project; and~~

~~(7) "Energy cost savings" means the annual savings in the expense for electricity, natural gas, or nonutility fuels realized as a result of installation of an energy conservation project.~~]

Section 7. KRS 58.605 is amended to read as follows:

(1) Subject to the reporting and approval requirements in ***Sections 3 and 4 of this Act and*** KRS 58.610, any ***local***

public~~[governmental]~~ agency may issue energy conservation revenue bonds to pay for the cost of energy conservation ***measures under guaranteed energy savings contracts***~~[projects]~~ for the purpose of reducing the cost of energy to buildings owned or operated by the ***local public***~~[governmental]~~ agency by making energy-saving improvements to these buildings.

(2) ***A local public***~~[Upon the receipt of a qualified energy audit, including a cost benefit analysis which establishes the expected annual energy cost savings which will result from an energy conservation project, a governmental]~~ agency, or an agency acting on its behalf, may issue energy conservation revenue bonds to finance the energy conservation ***measures under guaranteed energy savings contracts***~~[project]~~, with the following limitations:

(a) ***Any energy conservation measure, financed through bonds, shall comply with the provisions set forth in Sections 2, 3, and 4 of this Act;***

(b) The term of the bonds shall ***run coterminous with the term of guaranteed energy savings contract***~~[not exceed ten (10) years from the date of issuance, or the anticipated useful life of the energy conservation project as determined by generally accepted accounting principles, whichever is less;~~

~~(b) The annual debt service payments on the energy conservation revenue bonds shall not exceed eighty percent (80%) of the projected annual energy cost savings resulting from the energy conservation project; and~~

~~(c) The principal amount of the energy conservation revenue bonds issued to finance an energy conservation project shall in no case exceed ten percent (10%) of the estimated replacement cost of the building in which the energy conservation project is installed]~~.

(c) A local public agency shall not enter into a guaranteed energy savings contract where the total cost of the energy conservation measures exceeds the cost of the energy savings plus the operational costs plus the capital cost avoidance that is estimated for the term of the guaranteed energy savings contract commencing from the date of the energy conservation measure's installation; and

(d) The use of capital cost avoidance shall be subject to the following restrictions:

1. The amount expended shall not exceed fifty percent (50%) of the project cost; and

2. Capital cost avoidance shall be restricted to payment for permanent equipment replacement as follows:

a. Storm windows or doors, multiglazed windows or doors, additional glazing, and reduction in glass area;

b. Replacement of heating, ventilating, or air conditioning major components or systems;

c. New lighting fixtures where required to achieve Illuminating Engineering Society of North America (IES) standards, provided the existing light fixtures shall have been determined to be obsolete and incapable of achieving IES standards; and

d. Life safety system replacements or upgrades which shall have been determined to be necessary to conform with existing state and local codes and standards.

(3) Energy conservation revenue bonds shall be issued in accordance with the provisions of KRS 58.010 to 58.140 and shall be sold at a publicly advertised, competitive sale and shall bear interest at an interest rate or rates determined by the ***local public***~~[governmental]~~ agency at the time of the sale.

Section 8. KRS 58.610 is amended to read as follows:

(1) ~~[No]~~Energy conservation revenue bonds authorized under KRS 58.600 to ***58.610***~~[58.615 shall be]~~ issued by or on behalf of a school district ***shall be approved or disapproved by the chief state school officer based on consideration of the following criteria:***

(a) Funding capability of the school;

(b) The availability of general fund, capital outlay allotment under Section 9 of this Act, or state and local funds from the Facility Support Program of Kentucky under Section 10 of this Act, that are to be contributed by the school district as capital cost avoidance; and

(c) Proper bond documentation.

(2) Guaranteed energy savings and guaranteed operational savings of a guaranteed energy savings contract shall be exempt from current or future debt limitations, except that capital cost avoidance, as defined in Section 6 of this Act, shall not be exempt from current or future debt limitations~~[without the prior approval of the commissioner of education or the state department of education acting on behalf of the commissioner, except that this approval shall not be required if the principal amount of energy conservation revenue bonds is less than one hundred thousand dollars ($100,000)]~~.

(3)~~[(2)]~~ No energy conservation revenue bonds authorized under KRS 58.600 to ***58.610***~~[58.615]~~ shall be issued by or on behalf of a county, urban-county government, charter county government, city, or special district without the prior approval of the state local debt officer, except that this approval shall not be required if the principal amount of energy conservation revenue bonds is less than five hundred thousand dollars ($500,000).

(4)[~~(3)~~] Any issuance of energy conservation revenue bonds shall be reported to the state local debt officer.

Section 9. KRS 157.420 is amended to read as follows:

Public school funds made available to the credit of each district during any year shall be received, held, and expended by the district board, subject to the provisions of law and administrative regulations of the Kentucky Board of Education. The following restrictions shall govern the expenditure of funds from the public school fund:

(1) The teachers' salaries allotment for each district from the public school fund and from local sources shall be used only for teachers holding properly authorized certificates. The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year or the allotment under KRS 157.390(3) shall be reduced by an amount equal to the amount by which the district failed to meet the salary requirements.

(2) The Kentucky Board of Education shall not approve any working budget or salary schedule summary for local boards of education for any school year in which the total amount for one hundred eighty-five (185) days on the salary schedule summary for salaries paid from the base funding is not equal to:

(a) The amount for one hundred eighty-five (185) days on the district's salary schedule summary for instructional salaries paid with state funds the preceding year; plus

(b) The additional amount for instructional salaries to be received by the district under the biennial budget schedule for a one hundred eighty-five (185) day school term by assuming the same rank and experience of teachers in the current year as in the preceding year.

(3) A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS 161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year to be determined according to the number of staff employed by the district on September 15. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.

(4) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the chief state school officer in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the Kentucky Board of Education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from over-expenditure for capital construction, if such deficit resulted from an emergency declared by the Kentucky Board of Education under KRS 160.550; and

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.

(5) ***The district may contribute capital outlay funds for energy conservation measures under guaranteed energy savings contracts pursuant to Sections 2, 3, and 4 of this Act. Use of these funds, provided in Sections 4, 5, and 6 of this Act, shall be based on the following:***

(a) The energy conservation measures shall include facility alteration;

(b) The energy conservation measures shall be identified in the district's approved facility plan;

(c) The current facility systems are consuming excess maintenance and operating costs;

(d) The savings generated by the energy conservation measures are guaranteed;

(e) The capital outlay funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in subsection (2) of Section 2 of this Act and shall be subject to the restrictions on usage as specified in subsection (9) of Section 3 of this Act; and

(f) The equipment that is replaced shall have exceeded its useful life as determined by a life-cycle cost analysis.

(6) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the chief state school officer under administrative regulations of the Kentucky Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds.

(7)[~~(6)~~] If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection (4) of this section, upon approval of the chief state school officer, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.

(8)[~~(7)~~] In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.

(a) "Permanent center" means a center which meets the program standards approved by the Kentucky Board of Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.

(b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.

(c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.

(9)[~~(8)~~] If a local school board authorized elementary, middle, or secondary education classes in a facility of a historical settlement school on January 1, 1994, the board shall continue to use the facilities provided by the settlement school if the facilities meet health and safety standards for education facilities as required by administrative regulations. The local school board and the governing body of the settlement school shall enter into a cooperative agreement that delineates the role, responsibilities, and financial obligations for each party.

Section 10. KRS 157.440 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after July 1, 1990, the board of education of each school district may levy an equivalent tax rate as defined in subsection (12)(a) of KRS 160.470 which will produce up to fifteen percent (15%) of those revenues guaranteed by the program to support education excellence in Kentucky. The levy for the 1990-91 school year shall be made no later than October 1, 1989, and no later than October 1, 1990, for the 1991-92 school year, and by October 1 of each odd-numbered year thereafter. Effective with the 1990-91 school year, revenue generated by this levy shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment.

(b) To participate in the Facilities Support Program of Kentucky, the board of education of each school district shall commit at least an equivalent tax rate of five cents ($0.05) to debt service, new facilities, or major renovations of existing school facilities. The five cents ($0.05) shall be in addition to the thirty cents ($0.30) required by KRS 160.470(12) and any levy pursuant to paragraph (a) of this subsection. The levy shall be made no later than October 1 of each odd-numbered year. Eligibility for equalization funds for the biennium shall be based on the district funds committed to debt service on that date. The five cents ($0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment. The equalization funds shall be committed to debt service to the greatest extent possible, but any excess equalization funds not needed for debt service shall be deposited to a restricted building fund account. The funds may be escrowed for future debt service or used to address categorical priorities listed in the approved facilities plan pursuant to KRS 157.420.

(c) ***The board of education of each school district may contribute the levy equivalent tax rate of five cents ($0.05) and equalization funds for energy conservation measures under guaranteed energy savings contracts pursuant to Sections 2, 3, and 4 of this Act. Use of these funds, as provided under Sections 4, 5, and 6 of this Act shall be based on the following guidelines:***

1. Energy conservation measures shall include facility alteration;

2. Energy conservation measures shall be identified in the district's approved facility plan pursuant to Section 9 of this Act;

3. The current facility systems are consuming excess maintenance and operating costs;

4. The savings generated by the energy conservation measures are guaranteed;

5. The levy equivalent tax rate of five cents ($0.05) and equalization funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in subsection (2) of Section 2 of this Act and shall be subject to the restrictions on usage as specified in subsection (9) of Section 3 of this Act; and

6. The equipment that is replaced has exceeded its useful life as determined by a life cycle cost analysis.

(d) The rate levied by a district board of education under the provisions of this subsection shall not be subject to the public hearing provisions of KRS 160.470(10) or to the recall provisions of KRS 160.470(11).

(e)[~~(d)~~]A school district which is at or above the equivalent tax rates permitted under the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall not be required to levy an equivalent tax rate which is lower than the rate levied during the 1989-90 school year.

(2) (a) A district may exceed the maximum provided by subsection (2) of KRS 160.470 provided that, upon request of the board of education of the district, the county board of elections shall submit to the qualified voters of the district, in the manner of submitting and voting as prescribed in paragraph (b) of this subsection, the question whether a rate which would produce revenues in excess of the maximum provided by subsection (2) of KRS 160.470 shall be levied. The rate that may be levied under this section may produce revenue up to no more than thirty percent (30%) of the revenue guaranteed by the program to support education excellence in Kentucky plus the revenue produced by the tax authorized by this section. Revenue produced by this levy shall not be equalized with state funds. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy a rate not to exceed the rate authorized by the voters.

(b) The election shall be held not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the county clerk, and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district.

(3) For the 1966 tax year and for all subsequent years for levies which were approved prior to December 8, 1965, no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (4) of this section and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(4) Notwithstanding the limitations contained in subsection (3) of this section, no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS Chapter 162.

(5) The chief state school officer shall certify the compensating tax rate to the levying authorities.

Section 11. The following KRS section is repealed:

58.615 Authority for administrative regulations.

HCR 81, A CONCURRENT RESOLUTION directing a study by the Legislative Research Commission of single and multi-county agencies in the Commonwealth that are formed for various long-range planning or development activities.

WHEREAS, the Commonwealth is served by many different agencies and nonprofit organizations in various capacities including area development districts, planning commissions, education consortiums, and tourism development agencies; and

WHEREAS, many of these agencies and nonprofit organizations receive state funding of some amount; and

WHEREAS, it is unknown how many of these different agencies are in the Commonwealth; and

WHEREAS, it is necessary that the Commonwealth use its limited resources wisely and avoid unnecessary duplication of services;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to conduct a study to identify the single and multi-county agencies in the Commonwealth that are formed for long-range planning or development activities and that receive state funding.

Section 2. The Legislative Research Commission shall identify these agencies and their legal status, review their services, and recommend that the state continue or cease funding to the agencies. The study shall be completed by August 30, 1999, and it shall be presented to the members of the General Assembly.

Section 3. Staff services to be utilized in completing this study are estimated to cost twenty-five thousand dollars ($25,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

SB 33, AN ACT relating to state holidays.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.190 is amended to read as follows:

(1) State offices shall be closed and state employees shall be given a holiday on the following days:

(a) The first day of January~~[plus one (1) extra day]~~;
(b) The third Monday in January;
(c) The third Monday in February;
(d) Good Friday, one-half (1/2) day;
(e) The last Monday in May;
(f) The fourth day of July;
(g) The first Monday in September;
(h) ***The eleventh day of November;***
(i) Presidential election day as required under KRS 2.190;
(j)~~[(i)]~~ The fourth Thursday in November plus one (1) extra day; ***and***
(k)~~[(j)]~~ The twenty-fifth day of December plus one (1) extra day.

(2) When any of the days enumerated in subsection (1) falls on a Saturday, the preceding Friday shall be observed as the holiday, and when any of the days enumerated in subsection (1) falls on a Sunday, the following Monday shall be observed as the holiday. When one (1) extra day is mentioned in paragraphs (a), (i)***,*** and (j) of subsection (1), the Governor shall designate the extra day.

(3) The holidays set out in this section are in addition to vacation leave and other benefits of state employees.

SB 54, AN ACT relating to the Kentucky lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis, may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to

do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may, at any time, conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(4) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:

(a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;

(b) A statement identifying the auditing firm;

(c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and

(d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

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SB 139, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Human Resources, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Cabinet, the Labor Cabinet, the[~~ commissioner of the Department of~~] Personnel ***Cabinet***,[~~ the secretary of~~] the Governor's Executive Cabinet, the State Budget Director, the Governor's Chief of Staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.

- (a) Secretary of State.
- (b) Board of Elections.
- (c) Registry of Election Finance.

4. Department of Law.
   - (a) Attorney General.
5. Department of the Treasury.
   - (a) Treasurer.
6. Department of Agriculture.
   - (a) Commissioner of Agriculture.
   - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
   - (a) Department of State Police.
   - (b) Department of Criminal Justice Training.
   - (c) Department of Corrections.
   - (d) Department of Juvenile Justice.
   - (e) Office of the Secretary.
   - (f) Offices of the Deputy Secretaries.
   - (g) Office of General Counsel.
   - (h) Medical Examiner Program.
   - (i) Parole Board.
   - (j) Kentucky State Corrections Commission.
   - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
   - (a) Department of Education.
     - (1) Kentucky Board of Education.
     - (2) Education Professional Standards Board.
   - (b) Department for Libraries and Archives.
   - (c) Kentucky Arts Council.
   - (d) Kentucky Educational Television.
   - (e) Kentucky Historical Society.
   - (f) Kentucky Teachers' Retirement System Board of Trustees.
   - (g) Kentucky Center for the Arts.
   - (h) Kentucky Craft Marketing Program.
   - (i) Kentucky Commission on the Deaf and Hard of Hearing.
   - (j) Governor's Scholars Program.
   - (k) Governor's School for the Arts.
   - (l) Office of Development.
   - (m) Kentucky Heritage Council.
   - (n) Kentucky African-American Heritage Commission.
3. Natural Resources and Environmental Protection Cabinet:
   - (a) Environmental Quality Commission.
   - (b) Kentucky Nature Preserves Commission.
   - (c) Department for Environmental Protection.

(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.

(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
    (a) Department of Travel Development.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of Film Promotion.
    (h) Office of General Counsel.
12. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) State Board for Adult and Technical Education.
    (g) Governor's Council on Vocational Education.
    (h) The State Board for Proprietary Education.
    (i) The Foundation for Adult Education.
    (j) The Kentucky Job Training Coordinating Council.
    (k) Office of General Counsel.
    (l) Office of Communication Services.
    (m) Office of Development and Industry Relations.
    (n) Office of Workforce Analysis and Research.
    (o) Office for Administrative Services.
    (p) Office for Policy, Budget, and Personnel.
    (q) Unemployment Insurance Commission.
13. Personnel Cabinet:
    (a) Office of Administrative and Legal Services.
    (b) Department for Personnel Administration.
    (c) Department for Employee Relations.
    (d) Kentucky Public Employees Deferred Compensation Authority.
    (e) Kentucky Kare.
    (f) Division of Performance Management.
    (g) Division of Employee Records.
    (h) Division of Staffing Services.
    (i) Division of Classification and Compensation.
    (j) Division of Employee Benefits.
    (k) Division of Communications and Recognition.
III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2.[~~Department of Personnel.~~
~~3.~~] Council on Postsecondary Education.
    (a) Kentucky Community Service Commission.
3.[~~4.~~] Department of Local Government.
4.[~~5.~~] Kentucky Commission on Human Rights.
5.[~~6.~~] Kentucky Commission on Women.

6.[~~7.~~] Department of Veterans' Affairs.

7.[~~8.~~] Kentucky Commission on Military Affairs.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6) Public Protection and Regulation Cabinet.
(7) Cabinet for Human Resources.
(8) Finance and Administration Cabinet.
(9) Tourism Cabinet.
(10) Revenue Cabinet.
(11) Labor Cabinet.
(12) Cabinet for Workforce Development.
(13) Personnel Cabinet.

Section 4. KRS 13B.030 is amended to read as follows:

(1) An agency head may exercise all powers conferred on an agency relating to the conduct of administrative hearings, and he may delegate conferred powers to a hearing officer or a member of a collegial body that serves as an agency head, or he may delegate conferred powers to a hearing officer to conduct an administrative hearing before a hearing panel, reserving the authority to render a recommended order to that panel. An agency head may not, however, delegate the power to issue a final order unless specifically authorized by statute, or unless disqualified in accordance with KRS 13B.040(2).

(2) (a) In securing hearing officers as necessary to conduct administrative hearings under the jurisdiction of the agency, an agency may:

1. Employ hearing officers;
2. Contract with another agency for hearing officers; or
3. Contract with private attorneys through personal service contract.

(b) An agency may secure hearing officers pursuant to subsection (2)(a)3. of this section only if the Attorney General has first determined that the Attorney General's Office cannot provide the needed hearing officers to the agency. If the Attorney General determines that the Attorney General's Office can provide the needed hearing officers to the agency, the agency shall use the hearing officers provided by the Attorney General's Office. The expenses incurred by the Attorney General's Office in providing the hearing officers to the agency shall be paid to the Attorney General's Office by the agency in the following manner:

1. The amount to be paid by the agency to the Attorney General's Office shall be established by vouchers submitted by the Attorney General's Office to the agency which shall be promptly paid by the agency, at the beginning of, at the end of, or at any time during the provision of the hearing officers by the Attorney General's Office.

2. The expenses to be paid to the Attorney General's Office shall be calculated according to the amount of time spent by the salaried hearing officers of the Attorney General's Office in providing the services. The charge for time spent shall not exceed twenty-five percent (25%) more than the amount allowed for a sole practitioner under personal service contract. The Attorney General may require payment in advance of the provision of the requested services based on his calculation of the amount of time that will be spent by the salaried hearing officers of the Attorney General's Office in providing the services. The agency shall be reimbursed for any overpayment at the conclusion of the provision of services by the Attorney General's Office.

(3) A hearing officer shall possess and meet qualifications as the[~~ Department of~~] Personnel ***Cabinet*** and the employing agency, with the advice of the division, may find necessary to assure competency in the conduct of an administrative hearing. The qualifications in this subsection shall not, however, apply to a member of a board, commission, or other collegial body who may serve as a hearing officer in his capacity as a member of the collegial body.

(4) All hearing officers, including members of collegial bodies who serve as hearing officers, shall receive training necessary to prepare them to conduct a competent administrative hearing. The training shall pertain to the conduct of

administrative hearings generally and to the applications of the provisions of this chapter, specifically. The division shall establish by administrative regulation minimum standards concerning the length of training, course content, and instructor qualifications. Required training shall not exceed eighteen (18) classroom hours for initial training and six (6) classroom hours per year for continuing training. Actual training may be conducted by an agency or any other organization, if the training program offered has been approved by the division as meeting minimum standards.

Section 5. KRS 15.111 is amended to read as follows:

(1) The Division of Administrative Hearings is created in the Office of Attorney General.

(2) This division shall have the following responsibilities:

(a) Employing and maintaining a pool of hearing officers for assignment to the individual agencies at their request, for the conduct of administrative hearings. The Attorney General's office may also employ other staff as necessary to carry out functions and responsibilities assigned by KRS Chapter 13B;

(b) Reviewing and approving or disapproving requests from agencies for waivers from provisions of KRS Chapter 13B;

(c) Providing training in administrative hearing procedures for hearing officers as required in KRS 13B.030, either by developing and offering the training, or by contracting with appropriate organizations for the provision of training, or by approving training developed and submitted by the agencies;

(d) Consulting with the[~~ Department of~~] Personnel ***Cabinet*** and employing agencies in the establishment of relevant and appropriate qualifications for classes of hearing officers;

(e) Establishing, in cooperation with the Division of Consumer Protection, a clearinghouse for complaints concerning the administrative hearing process in Kentucky. Each complaint received shall be referred to the agency that is the subject of the complaint, and the action of the agency to resolve the complaint shall be noted and reported to the division;

(f) Reporting to the Legislative Research Commission by July 1 of each odd-numbered year, the status of the administrative hearing process in Kentucky. The report shall include a compilation of statistical data and other information necessary to assess the effectiveness and efficiency of hearing procedures and recommendations for making improvements to the system. Agencies shall provide the information requested by the Division of Administrative Hearings necessary to complete the report.

Section 6. KRS 15.760 is amended to read as follows:

(1) Each Commonwealth's attorney shall, during the calendar year 1977 and through June 30, 1978, be entitled to at least the number of assistant Commonwealth's attorney positions, stenographic, secretarial and clerical staff positions, investigative and other personnel positions, which he had or was entitled to at the number and salary level in effect on December 1, 1976.

(2) The number of assistant Commonwealth's attorney positions, stenographic, secretarial and clerical staff positions, investigative and other personnel positions, shall be based on real need to be determined with the advice and consent of the Prosecutors Advisory Council.

(3) All assistant Commonwealth's attorneys shall be licensed practicing attorneys. The full-time assistant Commonwealth's attorneys shall not be allowed to engage in the private practice of law.

(4) All salaries paid to personnel appointed hereunder shall be paid from the State Treasury. The salaries shall be commensurate with the appointee's education, experience, training and responsibility, and be based upon the guidelines established by the Prosecutors Advisory Council, which guidelines shall be comparable with the classification and compensation plan for comparable positions maintained by the state[~~ Department of~~] Personnel ***Cabinet***, pursuant to KRS 64.640.

(5) The fiscal court or urban-county government in the county or counties that comprise the judicial circuit shall be responsible for providing the office of the Commonwealth's attorney with an adequate grand jury room and witness rooms.

(6) (a) Each Commonwealth's attorney shall be authorized to employ individually or jointly with one or more other Commonwealth's attorneys at least one (1) victim advocate to counsel and assist crime victims as defined in KRS 421.500.

(b) An individual employed as a victim advocate shall be a person who by a combination of education, professional qualification, training, and experience is qualified to perform the duties of this position. The victim advocate shall be an individual at least eighteen (18) years of age, of good moral character, with at least two (2) years of experience working in the human services field or court system in a position requiring professional contact with children or adults, who has:

1. Received a baccalaureate degree in social work, sociology, psychology, guidance and counseling, education, religion, criminal justice, or other human service field; or

2. Received a high school diploma or equivalency certificate, and, in addition to the experience required in this subsection, has at least four (4) years' experience working in the human services field or court system.

(c) Each Commonwealth's attorney who employs an individual to serve as a victim advocate shall develop a written job description which describes the duties of the position and shall ensure the victim advocate completes training relating to the appropriate intervention with crime victims, including victims of domestic violence. Each victim advocate shall perform those duties necessary to insure compliance with the crime victim's bill of rights contained in KRS 421.500 to 421.530. No victim advocate shall engage in political activities while in the course of performing his duties as victim advocate or the practice of law as defined in KRS 524.130. The creation and funding of any new personnel position shall be reviewed and approved by the Prosecutors Advisory Council.

Section 7. KRS 15.770 is amended to read as follows:

(1) Each county attorney, with the approval of the Prosecutors Advisory Council, may appoint one (1) assistant county attorney for each District Judge in excess of one (1) in his judicial district unless prior approval is obtained from the Prosecutors Advisory Council for additional appointments; except no assistant county attorney may be appointed in multicounty judicial districts in which there are fewer District Judges than county attorneys unless prior approval is obtained from the Prosecutors Advisory Council for additional appointments.

(2) The number of assistant county attorney positions, stenographic, secretarial and clerical positions and other personnel positions shall be based on real need to be determined with the advice and consent of the Prosecutors Advisory Council.

(3) Assistant county attorneys shall not be prohibited from engaging in the private practice of law.

(4) Any personnel appointed by the county attorney, under this section, who assist in the prosecutorial duties of District Court, shall be appointed for the duration of the unexpired part of the term of the county attorney, and subject to removal at the discretion of the county attorney.

(5) All salaries paid to personnel appointed under this section shall be paid from the State Treasury to the extent such personnel assist in prosecutorial duties. Such salaries shall be commensurate with the appointee's education, experience, training and responsibility, and be based upon the guidelines established by the Prosecutors Advisory Council, which guidelines shall be comparable with the classification and compensation plan for comparable positions maintained by the State~~[Department of]~~ Personnel ***Cabinet***, pursuant to KRS 64.640.

Section 8. KRS 16.050 is amended to read as follows:

(1) The commissioner shall appoint or promote to the ranks and grades and positions of the department such officers as are considered by him to be necessary for the efficient administration of the department. Notwithstanding the provisions of KRS 64.640, the commissioner of the State Police and the ***secretary***~~[commissioner]~~ of the~~[Department of]~~ Personnel ***Cabinet*** shall biennially conduct a salary survey, by rank, of State Police/highway patrol officers in those states adjoining Kentucky. The salaries of such officers of equal rank in those states surveyed shall be averaged, and such averages where the average for that rank exceeds the salary paid to Kentucky officers of that rank in the preceding biennium, shall be included in the department's budget request submitted to the Kentucky General Assembly.

(2) All initial appointments of officers to the department shall be made for merit and fitness after a competitive examination.

(3) There is created a State Police Personnel Board consisting of the commissioner and four (4) other members to be appointed by the Governor, two (2) to be appointed from each of the two (2) major political parties.

(4) The initial appointment of members of the board shall be for terms of one (1), two (2), three (3), and four (4) years. Thereafter each appointment shall be for a term of four (4) years, except that a person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed for the remainder of that term.

(5) Members of the board may be removed by the Governor only for cause, after being given a copy of charges against them and an opportunity to be heard publicly on such charges before the Governor.

(6) The board shall elect one (1) of its members chairman. It shall meet at such time and place as shall be specified by call of the commissioner. Three (3) members shall constitute a quorum for the transaction of business. Members of the board other than the commissioner shall receive compensation of fifty dollars ($50) and reimbursement of travel expenses for each meeting of the board which they attend.

(7) The board shall make administrative regulations to carry out the purposes herein, which shall include provisions for:

(a) Open competitive examination as to fitness of applicants for employment as officers; and

(b) Establishment of eligible lists as a result of such competitive examinations, from which lists vacancies shall be filled.

(8) The board shall hear appeals from applicants for employment for which examinations are being given or have been conducted and from eligibles on examination registers subject to the procedural rules which the board may adopt pursuant to the provisions of this section.

Section 9. KRS 16.543 is amended to read as follows:

(1) Employee contributions shall be deducted from the creditable compensation of each member of the retirement system in

the active employment of the Department of State Police of the Justice Cabinet as an officer as defined in KRS 16.520. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 16.545(4). Service credit shall be allowed for each month such member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Contributions shall not be made and no service will be earned while on authorized leave except:

- (a) A member shall be entitled to service credit in accordance with KRS 61.555; and
- (b) A member on educational leave, approved by the[~~ Department of~~] Personnel ***Cabinet***, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions or such contributions shall be picked up in accordance with KRS 16.545 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(3) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 16.560.

Section 10. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the ***secretary***[~~commissioner~~];

(2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;

(3) "Board" means the Personnel Board created by KRS 18A.045;

(4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;

(5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the ***secretary***[~~commissioner~~] on request of an appointing officer for consideration in filling a position in the classified service;

(6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(7) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

(8) "***Secretary***[~~Commissioner~~]" means the ***secretary***[~~commissioner~~] of the [~~Department of~~]Personnel ***Cabinet*** as provided for in KRS 18A.015;

(9) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;

(10) "***Cabinet***[~~Department~~]" means the[~~ Department of~~] Personnel ***Cabinet*** provided for in KRS 18A.015, unless the context indicates otherwise;

(11) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;

(12) "Emergency employee" means an employee appointed without regard to the examination requirements of KRS 18A.010 to 18A.200 to any position by reason of a governmental emergency. An emergency appointment shall not exceed thirty (30) working days in duration and is nonrenewable;

(13) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(14) "Federally funded time-limited employee" means an employee appointed to a federally funded time-limited position and, except as provided in KRS 18A.115, may in all other respects be entitled to the benefits provided permanent, full-time regular employees as defined in this chapter;

(15) "Federally funded time-limited position" means a position created for the specific purpose of providing public service

employment or one (1) time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;

(16) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence. "Initial probation" does not include a probationary period served by a laid-off employee who accepts a bona fide written offer of appointment;

(17) "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employees;

(18) "Position" means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied, or vacant) involving duties requiring the services of one (1) person;

(19) "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;

(20) "Promotional probation" means the six (6) month period of service following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;

(21) "Provisional employee" means any employee appointed on a temporary or interim basis to a permanent position under KRS 18A.010 to 18A.200 without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18A.110(7)(h);

(22) "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;

(23) "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;

(24) "Reemployment" shall mean the rehiring of an employee with status who has been laid off;

(25) "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;

(26) "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;

(27) "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;

(28) "Seasonal employee" means an employee appointed to a seasonal position;

(29) "Seasonal position" means a position that is temporary, coincides with a particular season or seasons of the year, and does not exceed eleven (11) months' duration;

(30) "Seniority" means the total number of months of state service;

(31) "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service;

(32) "Temporary employee" means an employee appointed to a temporary position;

(33) "Temporary position" means a position that is created for a definite period of time not to exceed six (6) months and not renewable;

(34) "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

Section 11. KRS 18A.015 is amended to read as follows:

(1) There shall be created by KRS 18A.005 to 18A.200 a[~~ Department of~~] Personnel ***Cabinet*** headed by a ***secretary***[~~commissioner~~] who shall be appointed by the Governor.

(2) Appropriations shall be made from the general expenditure fund to the department to meet the estimated pro rata share of the cost of administering the provisions of this chapter for departments, commissions, boards or agencies which

receive their sole support from the general expenditure fund.

(3) The ***secretary***[~~commissioner~~] shall maintain accurate records reflecting the cost of administering the provisions of this chapter. At the close of each quarter year period he shall summarize the cost and shall bill each department, commission, board or agency which receives support from sources other than the general expenditure fund, except the Department of Fish and Wildlife Resources, for a pro rata share of the administrative cost based on the relationship between the quarterly average number of employees in the service of such department, commission, board or agency and the quarterly average number of employees in the service of all the departments, commissions, boards and agencies for the appropriate calendar quarter.

(4) All departments, commissions, boards or agencies which receive support from other than the general expenditure fund, except the Department of Fish and Wildlife Resources, shall include in their budgets sufficient amounts to meet their pro rata shares of the cost of administering KRS 18A.005 to 18A.200 and shall remit such shares quarterly to the department in the manner provided by law.

(5) The ***cabinet***[~~department~~] is authorized and directed to accept on behalf of the state any grant or contribution, federal or otherwise, made to assist in meeting the cost of carrying out the purposes of KRS 18A.005 to 18A.200.

Section 12. KRS 18A.020 is amended to read as follows:

(1) The records of the ***cabinet***[~~department~~] shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.

(2) (a) A personnel file shall be maintained by the ***cabinet***[~~department~~] and the appointing authority for each employee. The file maintained by the ***cabinet***[~~department~~] shall be the official personnel file for the employee. Upon transfer, the personnel file maintained by the appointing authority from which the employee transfers shall be forwarded to the new appointing authority;

(b) Each file shall include, but not be limited to, for each employee, his name, address, title of positions held, classification, rates of compensation, all changes in status including evaluations, promotions, demotions, layoffs, transfers, disciplinary actions, commendations, awards, and preliminary and other supporting documentation for each action. Each file shall contain the complete record and supporting documentation for each personnel action;

(c) Whenever an employee is reprimanded for misconduct, other infraction, or failure to perform his duties in a proper or adequate manner, the supervising employee taking such action shall document such action in detail, and shall provide the employee with a copy of such documentation. The supervising employee shall inform the employee that he has the right to prepare a written response to the action taken after he has reviewed the written documentation prepared by the supervising employee. Such response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response provided for herein in the employee's personnel file and shall transmit a copy to the ***cabinet***[~~department~~] to be placed in the official personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for herein have been placed in his personnel files.

(3) Upon written request, an employee shall have the right to examine his personnel file. An employee may comment in writing on any item in his file. Such comments shall be made a part of his file and shall be attached to the specific record or document to which they pertain.

(4) Upon written request a state employee, an applicant for employment, and an eligible on a register shall have the right to inspect and to copy any record and preliminary documentation and other supporting documentation that relates to him, except that an applicant, an eligible or a state employee shall not have the right to inspect or to copy any examination materials.

(5) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

Section 13. KRS 18A.025 is amended to read as follows:

(1) The Governor shall appoint the ***secretary***[~~commissioner~~] of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) The ***secretary of the***[~~Department of~~] Personnel ***Cabinet***[~~shall be attached to the Office of the Secretary of the Governor's Executive Cabinet, and the commissioner shall have the duties and responsibilities assigned by the secretary of the executive cabinet, and shall be responsible to and report to the secretary. In addition, the commissioner,~~] or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) There is established within the[~~ Department of~~] Personnel ***Cabinet*** the following ***offices and departments***[~~divisions~~], each of which shall be headed by a ***commissioner***[~~director~~] appointed by the ***secretary***[~~commissioner~~], subject to the prior approval of the Governor, pursuant to KRS 12.050***, except that the Kentucky Employees Deferred Compensation***

Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:

(a) *Office of the Secretary, composed of the:*

1. Office of Administrative and Legal Services, which shall:

a. Provide all administrative information systems management, and legal services to the Cabinet; and

b. Coordinate the state's affirmative action plan established in KRS 18A.138;

2. Kentucky Public Employees Deferred Compensation Authority which shall be attached to the Office of the secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of Finance and Administration, ex officio; the secretary of Personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a non-state employer. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A; and

3. Kentucky Kare;

(b) Department for Personnel Administration, composed of the:

1. Division of Performance Management, which shall coordinate and implement the employee performance evaluation systems throughout state government:

2. Division of Employee Records, which shall:

a. Maintain the central personnel files mandated by KRS 18A.020;

b. Process personnel documents and position actions;

c. Operate and maintain a uniform payroll system;

d. Implement lay-off plans mandated by KRS 18A.113 to KRS 18A.1132;

e. Certify payrolls as required by KRS 18A.125; and

f. Monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA);

3. Division of Staffing Services, which shall:

a. Operate a centralized applicant and employee counseling program;

b. Operate the examination program for State employment;

c. Prepare registers of candidate employment;

d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program; and

e. Construct merit examinations; and

4. Division of Classification and Compensation, which shall:

a. Maintain plans of classification and compensation for the State Service; and

b. Review and evaluate the plans; and

(c) Department for Employee Relations, composed of the:

1. Division of Employee Benefits, which shall be responsible for administering and assisting state employees with the following benefits and programs:

a. Workers' Compensation (KRS 18A.375);

b. Life Insurance (KRS 18A.205 to KRS 18A.220);

c. Health Insurance (KRS 18A.225);

d. Flexible Benefit Plan (KRS 18A.227);

e. Employee Benefit Plan (KRS 18A.2281);

f. Sick leave Sharing Program (KRS 18A.197);

g. Health and Safety Programs (OSHA); and

h. Assessment and referral services provided to state employees;

2. Division of Communications and Recognition, which shall:

a. Communicate with state employees about personnel issues and other relevant issues through

publications;

b. Administer the employee incentive programs established by KRS 18A.202; and

c. Provide dispute resolution assistance to state employees and agencies.

[~~The Division of Administration and Processing, which shall be responsible for:~~

~~1. Maintaining the central personnel files mandated by KRS 18A.020;~~

~~2. Processing personnel documents and position actions;~~

~~3. Operating and maintaining a uniform payroll system;~~

~~4. Implementing lay-off plans mandated by KRS 18A.113 to 18A.1132;~~

~~5. Certifying payrolls as required by KRS 18A.125; and~~

~~6. Monitoring and assisting state agency compliance with the provisions of the Federal Fair Labor Standards Act (FLSA) which sets minimum wage requirements, governs the payment of overtime compensation, regulates child labor laws, and requires equal pay for equal work.~~

~~(b) The Division of Applicant Counseling and Examinations, which shall be responsible for the:~~

~~1. Operation of a centralized applicant and employee counseling program;~~

~~2. Operation of an examination program for state employment;~~

~~3. Preparation of registers of candidates for state employment; and~~

~~4. Coordination of outreach programs, such as the administrative intern program.~~

~~(c) The Division of Benefits Administration, which shall be responsible for the administration of the state employee's benefit package established by:~~

~~1. KRS 18A.205 to 18A.220 (Life insurance);~~

~~2. KRS 18A.225 (Health insurance);~~

~~3. KRS 18A.227 (Flexible benefit plan);~~

~~4. KRS 18A.2281 (Employee benefit plan);~~

~~5. KRS 18A.250 (Kentucky state employee's deferred compensation plan); and~~

~~6. KRS 18A.375 (State employee workers' compensation fund).~~

~~(d) The Division of Classification and Compensation, which shall be responsible for the:~~

~~1. Maintenance of plans of classification and compensation for the state service; and~~

~~2. Review and evaluation of these plans.~~

~~(e) The Division of Employee Services, which shall be responsible for designing and administering programs governed, authorized, or established by:~~

~~1. KRS 18A.112 (Performance evaluations);~~

~~2. KRS 18A.197 (Sick leave sharing program);~~

~~3. KRS 18A.202 (Work-related employee incentive programs);~~

~~4. Health and safety programs mandated by the Federal Occupational, Safety, and Health Act (OSHA); and~~

~~5. Assessment and referral services provided to state employees in need.~~]

(4) The ***cabinet***[~~department~~] shall include principal assistants appointed by the ***secretary***[~~commissioner~~], pursuant to KRS 12.050, as necessary for the development and implementation of policy. The ***secretary***[~~commissioner~~] may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 14. KRS 18A.030 is amended to read as follows:

(1) The ***secretary***[~~commissioner~~] shall be the executive and administrative head of the ***cabinet***[~~department~~] and shall supervise and control all examinations and work of the ***cabinet***[~~department~~]. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the ***secretary***[~~commissioner~~] shall appoint and supervise the staff needed in the ***cabinet***[~~department~~] to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.

(2) Subject to the provisions of this chapter and KRS Chapter 13A, the ***secretary***[~~commissioner~~] shall, with the aid of his staff:

(a) Attend all meetings of the board;

(b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;

(d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;

(f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(g) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;

(h) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;

(i) Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

(j) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for herein;

(k) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;

(l) Make a report and submit the same to the board, the Legislative Research Commission and the Governor not later than October first of each year;

(m) Discharge the other duties imposed upon him by KRS 18A.005 to 18A.200.

(3) The ***secretary***[~~commissioner~~] on behalf of the ***cabinet***[~~department~~] may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

(4) The ***secretary***[~~commissioner~~] shall keep records relative to employee turnover and report to the board, the Governor and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division, and section. If any cabinet, department, bureau, division, or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the ***secretary***[~~commissioner~~] shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor and the Legislative Research Commission.

(5) The ***secretary***[~~commissioner~~] shall provide to each new state employee and to each ***existing*** state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Human Resources and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures and referral services.

Section 15. KRS 18A.032 is amended to read as follows:

(1) Except as provided by the provisions of this chapter, the ***secretary***[~~commissioner~~] may refuse to examine an applicant; or, after examination, may disqualify an applicant, remove his name from a register, refuse to certify any eligible on a register, or may consult with the appointing authority in taking steps to remove such person already appointed if:

(a) It is found that he does not meet any one (1) of the preliminary requirements established for the examination for the class of position;

(b) He is unable to perform the duties of the class;

(c) He has made a false statement of material fact in his application;

(d) He has used or attempted to use political pressure or bribery to secure an advantage in the examination;

(e) He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled;

(f) He has failed to submit his application correctly or within the prescribed time limits;

(g) He has taken part in the compilation, administration, or correction of the examination for which he is an applicant;

(h) He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he had knowledge were pending;

(i) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;

(j) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or

(k) He has otherwise willfully violated the provisions of this chapter.

(2) An eligible may be removed from a register:

(a) If the eligible cannot be located by postal authorities at the last address provided by the eligible;

(b) If the eligible responds in writing that he no longer desires consideration for position in that class;

(c) If the eligible declines an offer of probationary appointment to the class for which the register was established;

(d) If it is shown that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;

(e) If the eligible fails to reply within a period of ten (10) calendar days of the receipt of the written request of the appointing authority for an interview, or fails to appear for an interview which he has scheduled with the appointing authority without good cause;

(f) If the eligible accepts an appointment and fails to present himself for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority; or

(g) If the eligible states in writing that he is not available for appointment or does not wish to be considered for appointment.

(3) When an eligible notifies the ***cabinet***[~~department~~] in writing that he is unavailable for employment or employment consideration, the ***cabinet***[~~department~~] may remove the name of that eligible from the appropriate register without further notification to the person.

(4) When the ***cabinet***[~~department~~] is notified in writing by an appointing authority that an eligible has accepted a bona fide offer of probationary appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same or less than that of the class to which he has been appointed.

Section 16. KRS 18A.035 is amended to read as follows:

(1) The ***secretary***[~~commissioner~~] may from time to time designate in writing an employee of the ***cabinet***[~~department~~] to act for him in case of his absence or inability from any cause to discharge the powers and duties of his position. In this case, the powers and duties of the ***secretary***[~~commissioner~~] shall devolve upon his designee.

(2) The ***secretary***[~~commissioner~~] may request appropriate persons, including officers and employees in the state service, to assist in the preparation and rating of tests. Department heads shall cooperate to the fullest extent possible in making the services of their employees available for such work.

(3) (a) The ***secretary***[~~commissioner~~] may enter into written agreements with an appointing authority which would provide for the delegation of his authority and power to the appointing authority. The ***secretary***[~~commissioner~~] is prohibited from delegating any powers or authority pertaining to disciplinary actions, layoffs, or registers.

(b) All written agreements delegating the ***secretary's***[~~commissioner's~~] power and authority as provided in paragraph (a) of this subsection shall be specific in nature and renewed annually.

(c) A copy of the written agreements shall be forwarded to the Personnel Board.

(4) The ***secretary***[~~commissioner~~] shall serve ex officio as a member of the board of trustees of the Kentucky Employees Retirement System.

Section 17. KRS 18A.043 is amended to read as follows:

[~~(1)~~]The ***secretary***[~~commissioner~~] of ***the Personnel Cabinet***[~~personnel~~] shall promulgate administrative regulations in accordance with KRS Chapter 13A, to implement the provisions of the Federal Drug-Free Workplace Act of 1988, Subtitle D of Public Law 100-690, so that the Commonwealth of Kentucky can certify that it has met the requirements designed to promote a drug-free workplace for all state employees.

[~~(2) The commissioner of personnel shall promulgate the administrative regulations referred to in subsection (1) of this section by January 1, 1991.~~]

Section 18. KRS 18A.0551 is amended to read as follows:

(1) (a) Elections to the board shall be scheduled every four (4) years on or before July 1. The ***cabinet***[~~department~~] shall provide written notification of the date of the election to all classified employees on or before May 1; and

(b) Upon receipt of the notification provided for by paragraph (a) of this subsection, an employee wishing to serve on the board shall notify the ***cabinet***[~~department~~], in writing, no later than June 1. This notification shall be notarized and shall include the candidate's name, address, Social Security number, job classification, and length of state employment. It shall also include the name and address of his current employer.

(2) On the last working day of May, the ***cabinet***~~[department]~~ shall certify a payroll that is current on such day and that contains the name, Social Security number and home address of every classified employee.

(3) At least fifteen (15) working days prior to the election provided for in subsection (1) of this section, the ***cabinet***~~[department]~~ shall mail to each classified employee whose name appeared on the payroll certified by the department at his home address:

- (a) A list of candidates for election to the board, in alphabetical order, with a brief biography following the name of each candidate;
- (b) Instructions for voting;
- (c) A ballot listing the names of all candidates for election to the board in alphabetical order and providing a blank space next to each name; and
- (d) Two (2) envelopes for returning the ballot. Prior to mailing the envelopes to a state employee, one (1) envelope shall be addressed by the ***cabinet***~~[department]~~ to the impartial third party selected by the ***cabinet***~~[department]~~ to receive, validate and tabulate the ballots at a post office box rented by the ***cabinet***~~[department]~~ for the election. The upper left corner of the preaddressed or outer envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name and address. The upper left corner of the second or inner envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name, address, Social Security number, the date and to affix his signature.

(4) Upon receipt of his ballot, a classified employee wishing to participate in the election provided for in subsection (1) of this section shall:

- (a) Vote for no more than two (2) candidates;
- (b) Mark his ballot by placing a mark in the blank space next to the name of the candidate for whom he is casting his vote;
- (c) Print his name and address in the upper left corner of the preaddressed or outer envelope provided by the ***cabinet***~~[department]~~;
- (d) Print his name, address, Social Security number, the date, and affix his signature in the upper left corner of the second or inner envelope provided by the ***cabinet***~~[department]~~;
- (e) Seal his ballot in the second or inner envelope; and
- (f) Seal the second or inner envelope in the preaddressed or outer envelope, affix a stamp to it, and post it.

(5) The ***cabinet***~~[department]~~ shall:

- (a) Select an impartial third party to receive, validate, and tabulate all returned ballots as provided by this subsection and subsection (6) of this section;
- (b) Acquire a post office box to which all ballots shall be mailed; and
- (c) Provide the impartial third party with a computer generated list of the names and Social Security numbers of eligible voters, with the names of the eligible voters in numerical sequence as determined by their Social Security numbers. The names and Social Security numbers listed on the list shall correspond to those appearing on the payroll certified by the ***cabinet***~~[department]~~ under subsection (2) of this section.

(6) The impartial third party selected by the ***cabinet***~~[department]~~ shall collect all ballots, unopened, from the post office box. It shall:

- (a) Examine the postmark on each envelope;
- (b) Set aside, unopened, any preaddressed or outer envelope postmarked with a date subsequent to the deadline provided for by this section;
- (c) Remove the second or inner envelope from the preaddressed or outer envelope;
- (d) Verify the name and Social Security number on the second or inner envelope by comparing them to the computer generated list of names and Social Security numbers of eligible voters provided by the ***cabinet***~~[department]~~;
- (e) Set aside, unopened, any second or inner envelope containing a name and Social Security number that does not match the name and Social Security number appearing next to the name on the computer generated list;
- (f) Tabulate the ballots by electronic data entry in duplicate, provided that ballots in envelopes specified in paragraphs (b) and (e) of this subsection shall not be counted;
- (g) Compare the total tabulated vote with the total number of eligible employees appearing on the computer generated list provided by the ***cabinet***~~[department]~~;
- (h) Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the

cabinet[~~department~~]; and

(i) Certify to the ***cabinet***[~~department~~]:

1. That the tabulation does not include two (2) or more ballots with the same Social Security number;
2. The total number of ballots received;
3. The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;
4. The total number of ballots included in the tabulation; and
5. The total vote for each candidate.

(7) For at least sixty (60) days after the completion of the tabulation provided for by subsection (6) of this section, the ballots, envelopes and other election materials provided for by this section shall be public record and open to inspection.

(8) The two (2) candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.

(9) Successful candidates shall be notified by the ***cabinet***[~~department~~] no later than five (5) working days after the election. Successful candidates shall take office immediately upon notification.

(10) State employees shall not use state materials or equipment for any purpose related to the election of classified employees to the board, nor shall any activity related to the election of a classified employee to the board be conducted during working hours.

Section 19. KRS 18A.060 is amended to read as follows:

(1) If an elected member of the board vacates his seat for any reason other than the normal expiration of his term, the ***cabinet***[~~department~~] shall provide written notification of the vacancy to all classified employees within fifteen (15) days of the vacancy.

(2) Classified employees wishing to fill the vacancy shall notify the ***cabinet***[~~department~~] within ten (10) days of the ***cabinet's***[~~department's~~] notification of the vacancy.

(3) A majority of the remaining members of the board shall make the appointment to fill the vacancy from the list of those employees who have notified the board under subsection (2) of this section.

Section 20. KRS 18A.065 is amended to read as follows:

The board, each member of the board, the executive director and any hearing officer of the board and the ***secretary***[~~commissioner~~] shall have the power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by KRS 18A.005 to 18A.200. Any person who shall fail to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony therein shall be subject to the provisions of KRS 18A.990.

Section 21. KRS 18A.075 is amended to read as follows:

Subject to the provisions of this chapter and KRS Chapter 13A, it shall be the duty of the board to:

(1) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants for the purpose of carrying out the provisions of this chapter;

(2) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 18A.005 to 18A.200, and to require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A; and to make such investigation as may be requested by the General Assembly or the Governor and to report thereon;

(3) Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, from unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause, and from officers or employees serving under the personnel systems created by this chapter, as provided by 1986 Acts Ch. 494;

(4) In cooperation with the ***secretary***[~~commissioner~~], promote public understanding of merit principles in government service;

(5) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel board;

(6) Make annual reports to the Governor, the Legislative Research Commission, and the ***secretary***[~~commissioner~~], and biennial reports to the General Assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy;

(7) Advise the Governor and the ***secretary***[~~commissioner~~] with respect to the administration of the personnel system created by this chapter;

(8) Consider and act on such matters as may be referred to the board by the ***secretary***[~~commissioner~~]; and

(9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the ***secretary***[~~commissioner~~] in fostering the interest of institutions of learning and of civic, professional, and employee organizations in the improvement of personnel standards in the state service.

Section 22. KRS 18A.0751 is amended to read as follows:

(1) The board shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Appeals by state employees;

(b) Demotion;

(c) Dismissal;

(d) Fines, suspensions, and other disciplinary measures;

(e) Probation, provided that the board may not require an initial probationary period in excess of six (6) months except as provided in subsection (4)(e) of this section and KRS 18A.005;

(f) Promotion;

(g) Reinstatement;

(h) Transfer; and

(i) Employee grievances and complaints.

(2) (a) These administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body, other than the personnel board, shall promulgate administrative regulations governing the subject matters specified in this section.

(3) Prior to filing an administrative regulation with the Legislative Research Commission, the board shall submit the administrative regulation to the ***secretary***[~~commissioner~~] for review:

(a) The ***secretary***[~~commissioner~~] shall review the administrative regulation proposed by the board not less than twenty (20) days after its submission to him;

(b) Not less than five (5) days after his review, the ***secretary***[~~commissioner~~] shall submit his recommendations in writing to the board;

(c) The board shall review the recommendations of the ***secretary***[~~commissioner~~] and may revise the proposed administrative regulation as it deems necessary; and

(d) After the board has completed the review provided for in this section, it may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(4) These administrative regulations shall provide:

(a) For the procedures to be utilized by the board in the conduct of hearings by the board, consistent with the provisions of KRS Chapter 13B;

(b) For reduction in rank or grade as provided by this chapter;

(c) For discharge, as provided by this section;

(d) For imposition, as disciplinary measures, of a fine of not more than ten (10) working days' pay, or for suspension from the service without pay for no longer than thirty (30) working days and, in accordance with the provisions of KRS 18A.095, for the manner of notification of the employee of the discipline and his right of appeal;

(e) No probationary period may exceed twelve (12) months, except as provided in KRS 18A.005. The ***secretary***[~~commissioner~~] may recommend an initial probationary period in excess of six (6) months for specific job classifications to the board. This recommendation shall take the form of a proposed administrative regulation that shall be submitted to the board for approval. The subject of the administrative regulation shall be limited to job classifications for which an initial probationary period in excess of six (6) months is required and shall specify:

1. The job classification for which an initial probationary period in excess of six (6) months is required; and

2. The specific number of months constituting the initial probationary period for the job classification. No other administrative regulation shall include any provision prescribing an initial probationary period in excess of six (6) months, except as provided in KRS 18A.005. Upon approval by the board of the proposed administrative regulation provided for in this paragraph, the board shall file the regulation with the Legislative Research Commission as provided by KRS Chapter 13A;

(f) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct, and seniority. Except as provided by this chapter, vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

(g) For reemployment of laid-off employees in accordance with the provisions of this chapter;

(h) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges as provided by the provisions of KRS 18A.1131(3)(a);

(i) For establishment of a plan for resolving employee grievances and complaints. This plan shall not restrict rights granted employees by the provisions of this chapter;

(j) For promotion of career employees to positions in the unclassified service without loss of status to the individual employees so promoted, as provided by this chapter; and

(k) For any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

Section 23. KRS 18A.095 is amended to read as follows:

(1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of KRS 281.770.

(b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of KRS 281.771 and 281.772.

(2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time, and place of such action or activity; and

4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(4) The ***Personnel Cabinet***~~[department]~~ shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.

(7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for this action, including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the dismissal or other penalization is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved;

(c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.

(9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension, or other penalization;

(b) The effective date of the demotion, suspension, or other penalization;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the demotion, suspension, or other penalization is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved; and

(d) That he has the right to appeal to the board within sixty (60) days, excluding the day that he received notification.

(10) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(11) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:

1. The reallocation; and

2. His right to request reconsideration by the ***secretary***[~~commissioner~~] within ten (10) working days of receipt of the notice, excluding the day he receives notification;

(b) He shall be provided with a form prescribed by the ***secretary***[~~commissioner~~] on which to request reconsideration; and

(c) The employee shall file a written request for reconsideration of the reallocation of his position with the ***secretary***[~~commissioner~~] in a manner and form prescribed by the ***secretary***[~~commissioner~~] and shall be given a reasonable opportunity to be heard thereon by the ***secretary***[~~commissioner~~]. The ***secretary***[~~commissioner~~] shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the ***secretary***[~~commissioner~~], the employee may appeal to the board.

(12) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(13) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(14) When an eligible's name is removed from a register, the ***secretary***[~~commissioner~~] shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the ***secretary***[~~commissioner~~] or in accordance with the decision of the board.

(15) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the ***secretary***[~~commissioner~~] pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(16) An evaluation may be appealed to the board if an employee has complied with the review procedure established under KRS 18A.112.

(17) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The ***Personnel Cabinet***[~~department~~] shall be responsible for the distribution of these forms;

(b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;

(c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the [~~Department of~~] Personnel ***Cabinet*** shall be notified and the board shall schedule a hearing.

(18) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

(19) (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;

(b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

(20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(21) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(22) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

(23) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;

(d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

(24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.

(25) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

(26) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an

insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(27) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

(28) For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

Section 24. KRS 18A.105 is amended to read as follows:

(1) (a) When a classified or unclassified employee has been finally ordered reinstated by the board without loss of pay, pursuant to the provisions of KRS 18A.095, the executive director of the board shall forward a certified copy of said order to the[~~ Department of~~] Personnel ***Cabinet*** and the Finance and Administration Cabinet, which shall process proper payment to the employee for the period of suspension, said payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the "judgments" section of the general fund of the biennial state budget.

(b) Gross moneys which were earned by the employee from other sources during the period of suspension shall be set-off against the gross sum due the employee, to the extent that the moneys were earned in a number of hours comparable to the length of time the employee would have worked in the job from which he was dismissed. The Finance and Administration Cabinet shall by regulation provide an administrative procedure for determining reasonable earnings to be so set off.

(c) All other deductions shall be deducted as required by law or by Finance and Administration Cabinet regulation.

(2) (a) Both the employee's and employer's contributions to the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or Kentucky Teachers' Retirement System have been paid.

(b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which he participated prior to his illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system in which he participated before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which he would have participated had he not been dismissed.

Section 25. KRS 18A.110 is amended to read as follows:

(1) The ***secretary***[~~commissioner~~] shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the ***secretary***[~~commissioner~~] shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985.

(2) The ***secretary***[~~commissioner~~] shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the ***secretary***[~~commissioner~~] shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the ***secretary***[~~commissioner~~] may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The ***secretary***[~~commissioner~~] may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the ***secretary***~~[commissioner]~~ shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the~~[Department of]~~ Personnel ***Cabinet*** shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the ***secretary***~~[commissioner]~~ shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the ***secretary***~~[commissioner]~~ not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the ***secretary***~~[commissioner]~~;

(c) The ***secretary***~~[commissioner]~~ shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the ***secretary***~~[commissioner]~~ has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class;

1. The ***secretary***~~[commissioner]~~ shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The ***secretary***~~[commissioner]~~ shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;
2. The secretary of the Finance and Administration Cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the Finance and Administration Cabinet on the basis of the availability of funds. The Finance and Administration Cabinet shall notify the department of any review and approval conducted under the provisions of this section;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the secretary of the Finance and Administration Cabinet. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio, and other media. The ***secretary***~~[commissioner]~~ shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The ***secretary***~~[commissioner]~~ shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the ***secretary***~~[commissioner]~~ for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the ***secretary***[~~commissioner~~] in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the ***secretary***[~~commissioner~~];

(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(i) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(j) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(k) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility; and

(l) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 26. KRS 18A.111 is amended to read as follows:

(1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, and except as provided in KRS 18A.005, an employee shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employee may be separated from his position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal, except as provided by KRS 18A.095. If the employee is separated from his position, he shall be notified in writing at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the ***secretary***[~~commissioner~~]. The employee shall be placed on an eligible list but shall not be certified to the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employee prior to the end of the initial probationary period that he is separated, the employee shall be deemed to have served satisfactorily and shall acquire status in the classified service.

(2) An employee who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted status and may not be demoted, disciplined, dismissed, or otherwise penalized, except as provided by the provisions of this chapter.

(3) An employee ordered reinstated by the board shall not be required to serve a probationary period unless the board rules otherwise, as provided in KRS 18A.095.

(4) An employee with status, who has been promoted, shall serve a promotional probationary period of six (6) months, except for those employees granted leave in excess of twenty (20) consecutive work days during this period. Such probationary periods shall be extended as prescribed in KRS 18A.005. During this period, he shall retain the rights and privileges granted by the provisions of this chapter to status employees.

(5) An employee with status may request that he be reverted to a position in his former class at any time during the promotional probationary period.

(6) A laid-off employee who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period. Such an employee shall serve a promotional probationary period. He shall be an employee with status and shall have all rights and privileges granted employees with status under the provisions of this chapter.

Section 27. KRS 18A.112 is amended to read as follows:

(1) Evaluations of employees shall comply with the provisions of this section.

(2) Salary advancements, promotions, and demotions shall be determined by an employee's performance evaluation along with appropriate consideration to the factors contained in KRS 18A.0751(4)(f).

(3) Evaluations shall be in writing. An evaluator shall present and explain all documentation affecting an employee's evaluation and shall discuss every aspect of his performance with the employee at each evaluation. The evaluator shall elicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve his performance.

(4) Each full-time employee who has completed his initial probationary period, each part-time employee who works over one hundred (100) hours each month and who has completed his initial probationary period, and each federally funded time-

limited employee who has completed six (6) months service shall be evaluated.

(5) (a) The first-line supervisor of an employee shall be his evaluator, providing he has supervised the employee for a period of at least ninety (90) calendar days;

(b) If the evaluator has supervised an employee for at least ninety (90) calendar days, and if he ceases to be the employee's first-line supervisor after such period of time, he shall evaluate the employee at least five (5) working days prior to the day he ceases to be the employee's supervisor;

(c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply; and

(d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to his transfer, provided he has supervised the employee no less than ninety (90) calendar days prior to notification of his transfer.

(6) An employee's performance shall be evaluated in each of the following categories:

(a) Job knowledge and skills;

(b) Quality of work;

(c) Productivity;

(d) Employee conduct, provided that the requirements of KRS 18A.020 have been met; and

(e) Improvement in performance provided that the requirements of KRS 18A.020 have been met.

(7) For each category, one (1) of the following ratings shall be given:

(a) Exceeds performance requirements;

(b) Meets performance requirements; or

(c) Fails to meet performance requirements.

(8) The ratings provided for in subsection (7) of this section shall be determined as follows:

(a) "Exceeds performance requirements" means that an employee's performance exceeds the performance requirements established for the employee's job in all categories;

(b) "Meets performance requirements" means that an employee's performance neither exceeds performance requirements in all categories nor fails to meet performance requirements in all categories established for the employee's job; and

(c) "Fails to meet performance requirements" means that an employee has failed to meet the performance requirements established for the employee's job in all categories.

(9) An employee who "exceeds performance requirements" shall be awarded a lump-sum payment of an amount to be determined by the ***secretary***[~~commissioner~~] based upon the appropriation for performance increments provided by the General Assembly. The lump-sum payment shall not increase the base salary or wages of the employee.

(10) Upon appointment to a position for which an evaluation is required by this section, and prior to the evaluation period, an evaluator shall:

(a) Identify the specific performance requirements established for an employee's job;

(b) Meet with the employee to inform him of these requirements and to discuss them with the employee; and

(c) Provide the employee with a written job description in sufficient detail to convey to the employee the specific performance requirements of his job, including, but not limited to, specific duties, time limits, reporting requirements, and required procedures.

(11) (a) At intervals of six (6) months and twelve (12) months after the procedure provided for in subsection (10) of this section, the evaluator shall:

1. Evaluate the employee's performance in writing;

2. Assign a rating to each category and an overall rating to the employee's performance; and

3. Discuss this evaluation with the employee; and

(b) The final rating of the employee's performance shall be made after the two (2) evaluations provided for in paragraph (a) of this subsection.

(12) (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.

(b) Within five (5) working days of reconsideration, an employee may:

1. Submit a written response to any evaluation. The response shall be attached to the evaluation; and

2. Submit a written request for reconsideration of any evaluation to his second-line supervisor.

(c) No later than fifteen (15) working days after receipt of a request, the second-line supervisor shall inform the employee and the evaluator in writing of his decision after he has:

1. Obtained written statements from both the employee and the evaluator; or

2. Met with the employee and the evaluator.

(13) Within sixty (60) days after the employee has received the written decision of his second-line supervisor, he may appeal an evaluation to the board.

(14) If an employee receives a "fails to meet performance requirements" rating in all categories on two (2) successive evaluations, he shall be:

(a) Demoted to a position commensurate with his abilities; or

(b) Terminated.

Section 28. KRS 18A.113 is amended to read as follows:

(1) It shall be unlawful to coerce employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with statutes relating thereto, and layoffs shall not be utilized as a method of dismissal.

(2) In the same cabinet, county and job classification, provisional, temporary, emergency, federally funded time-limited, and probationary employees shall be laid off before permanent full-time or permanent part-time employees with status. For purposes of layoff, "probationary employee" does not include an employee with status serving a promotional probation. A cabinet shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a lay-off plan submitted to the ***secretary***[~~commissioner~~] have the same qualifications, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment register for the class of position from which he was laid off and for any class for which he is qualified. He shall have the right to test for any class of position for which he is qualified to take an examination. If he passes the examination, he shall be placed on the register for the class.

(5) For a period of five (5) years, laid-off employees shall be hired before any applicant or eligible except another laid-off employee with greater seniority who is already on such register.

(6) For a period of five (5) years, a laid-off employee shall not be removed from any register unless:

(a) He notifies the ***cabinet***[~~department~~] in writing that he no longer desires consideration for a position on such register;

(b) He declines two (2) written offers of appointment to a position of the same classification and salary, and located in the same county, as the position from which he was laid off;

(c) Without good cause, he fails to report for an interview after he has been notified in writing at least ten (10) calendar days prior to the date of the interview;

(d) He is unqualified for appointment;

(e) He is unable to perform the duties of the class;

(f) He has made a false statement of a material fact in his application;

(g) He has used or attempted to use political influence or bribery to secure an advantage in connection with his placement on the register;

(h) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;

(i) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

(j) He cannot be located by postal authorities at the last address provided by him; or

(k) He has otherwise willfully violated the provisions of this chapter.

(7) When the ***cabinet***[~~department~~] is notified by an appointing authority that a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same as or less than that of the class to which he has been appointed.

(8) When a laid-off employee is removed from a register he shall be notified in writing and shall be notified of his right to appeal to the board under the provisions of KRS 18A.095.

Section 29. KRS 18A.1131 is amended to read as follows:

(1) A layoff of a state employee with status in the executive branch due to the abolition of a position, lack of work or a material change in duties or organization shall comply with the provisions of this section.

(2) Prior to the notification of an employee that he is subject to layoff and prior to the layoff of an employee, the appointing authority shall submit a lay-off plan to the ***secretary of the Personnel Cabinet***[~~commissioner~~] and ***to*** the secretary of the

Finance and Administration Cabinet for their approval. Such plan shall contain the name of the employee and the reasons, in detail, for such layoff. Upon approval of the plan by ***both secretaries***[~~the commissioner and the secretary~~], the employee shall be notified that he is subject to layoff, and of:

(a) The reason for the layoff;

(b) The procedures established by the provisions of KRS 18A.113 and this section for the layoff of employees; and

(c) The rights granted employees subject to layoff and to laid-off employees.

(3) (a) An employee subject to layoff shall be transferred to a vacant position of the same pay grade, level of duties and responsibilities for which he is qualified within the cabinet. Such position shall be located in the same county as the position from which the employee is subject to layoff;

(b) If such a vacancy does not exist, the employee shall be transferred to a vacant position within the cabinet for which he is qualified. Such position shall be located in the same county as the position from which the employee is subject to layoff; and

(c) If such a position is not available, the employee shall be notified of all vacant positions within the cabinet for which he is qualified to take an examination. The employee shall have the right to take an examination for any vacant position within the cabinet for which he is qualified. If he passes the examination, he shall be appointed to that position before any applicant or eligible on a register, except another laid-off employee with greater seniority already on such register.

(4) (a) If no position is available to an employee subject to layoff under the procedure established by subsection (3) of this section, the appointing authority shall notify the employee and the department; and

(b) The ***Personnel Cabinet***[~~department~~] shall coordinate efforts to transfer an employee subject to layoff to another agency. It shall have the authority to transfer an employee subject to layoff under this section, with the approval of the appointing authority of the agency to which the employee is to be transferred.

(5) If no position is available, the employee shall have the right to take an examination for any position for which he is qualified. If he passes the examination, he shall be hired before any applicant or eligible on a register, except a laid-off employee with greater seniority already on such register.

(6) If no position is available to an employee subject to layoff under the procedure established by subsections (3) and (4) of this section, the employee shall be notified in writing that he is to be laid off effective fifteen (15) days after receipt of notice, and of the rights and privileges granted laid-off employees.

Section 30. KRS 18A.1132 is amended to read as follows:

(1) Prior to a layoff of state employees in the executive branch, required by a projected or actual reduction in tax receipts contemplated under the provisions of subsections (1) and (6) of KRS 48.130, each cabinet shall prepare a lay-off plan that complies with the provisions of KRS 18A.113 and this section.

(2) Each lay-off plan shall provide that a layoff of state employees shall occur only after all other cost saving measures are taken and have failed to alleviate the projected or actual deficit. These measures shall be specified in the plan, in detail, and shall include but not be limited to:

(a) A hiring freeze of all types of appointments;

(b) A reduction or delay of expenditures that would not prevent the provision of services required by law;

(c) Consolidation of offices and job duties that would not prevent the provision of services required by law;

(d) Transfer of funds as provided by the budget reduction plan enacted pursuant to KRS Chapter 48;

(e) Transfer of funds appropriated for or allotted to vacant positions as provided by the budget reduction plan provided for by KRS 48.130, unless it is certified that the positions are essential and cannot be filled in the period during which layoffs are to occur by transfer of existing employees of the appointing authority;

(f) The filling of vacancies and promotions from within the cabinet; and

(g) Transfers of employees within the cabinet as provided by KRS 18A.1131(3) and (4).

(3) Each cabinet shall submit:

(a) Its lay-off plan; and

(b) A list of employees who would remain subject to layoff after the implementation of cost-saving measures;

to the ***secretary of the Personnel Cabinet***[~~commissioner~~] and to the secretary of the Finance and Administration Cabinet for review. Upon approval by the secretary ***of the Finance and Administration Cabinet***, the lay-off plans shall be submitted to the Governor for approval.

(4) Upon approval of the plan by the Governor, the ***secretary***[~~commissioner~~] shall attempt to transfer employees as provided by KRS 18A.1131(4)(b). Employees who cannot be so transferred may be laid off.

(5) If no position is available to an employee subject to layoff under the procedures established by this section, the employee

shall be notified in writing that he is to be laid off effective fifteen (15) days after receipt of notice, and of the rights and privileges granted laid-off employees.

(6) When the hiring freeze is ended, laid-off employees shall be hired before any applicant or eligible except laid-off employees already on such registers.

Section 31. KRS 18A.120 is amended to read as follows:

(1) Except as hereinafter provided, all hiring for the classified service shall be on the basis of competitive examinations and certification by the ***cabinet***[~~department~~] in accordance with the provisions of KRS 18A.005 to 18A.200.

(2) As of February 29, 1976, when an entity and its employees, either initially or subsequently, is brought into the state service, all employees of that entity required to be covered under the classified service shall be required to meet the minimum qualifications for the positions to which they are assigned and to satisfactorily complete a probationary period, except that in the discretion of the ***secretary***[~~commissioner~~] they shall not be required to take an examination. The ***secretary***[~~commissioner~~] shall equitably assign such employees within the salary range of an appropriate pay grade. Upon the recommendation of the appointing authority, the ***secretary***[~~commissioner of personnel~~] may authorize the credit of the amount of sick leave the employee had prior to being brought into state service. After completion of the initial probationary period employees employed under this statute shall be credited with the amount of service they had with this previous entity for accumulation of annual leave and other purposes of this chapter.

Section 32. KRS 18A.125 is amended to read as follows:

(1) No disbursing or auditing officer of the Commonwealth shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the classified or unclassified service unless the payroll voucher or account of such pay bears the certification of the ***secretary***[~~commissioner~~], or of his authorized agent, that the persons named therein have been appointed and employed in accordance with the provisions of KRS 18A.005 to 18A.200 and the rules, regulations, and orders thereunder. The ***secretary***[~~commissioner~~] may for proper cause or upon order of the board withhold certification from an entire payroll or from any specific item or items thereon. The ***secretary***[~~commissioner~~] may, however, provide that certification of payrolls may be made once every six (6) months, and such certification shall remain in effect except in the case of any officer or employee whose status has changed after the last certification of his payroll. In the latter case no voucher for payment of salary to such employee shall be issued or payment of salary made without the further certification of the ***secretary***[~~commissioner~~].

(2) Any citizen, including public officers, may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of KRS 18A.005 to 18A.200, or of any rule, regulation or order thereunder. Any sum paid contrary to any provision of KRS 18A.005 to 18A.200 or of any rule, regulation, or order thereunder may be recovered in an action maintained by any citizen, from any officer who made, approved, or authorized such payment or who signed or countersigned a voucher, payroll check or warrant for such payment, or from the sureties on the official bond of any such officer. All moneys recovered in any such action shall be paid into the Treasury.

(3) Any person appointed or employed in contravention of any provision of KRS 18A.005 to 18A.200 or of any rule, regulation, or order thereunder, who performs service for which he is not paid, may maintain an action against the officer or officers, employee or employees, who purported so to appoint or employ him, to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. No such officer or employee shall be reimbursed by the Commonwealth at any time for any sum paid to such person on account of such services.

(4) If the ***secretary***[~~commissioner~~] wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain a proceeding in the Circuit Court in the county in which he resides to compel the ***secretary***[~~commissioner~~] to certify such payroll voucher or account.

Section 33. KRS 18A.135 is amended to read as follows:

(1) Any career employee who has been laid off or dismissed, other than for cause, and, in the case of an unclassified management employee, resignation other than resignation in lieu of dismissal for cause, shall automatically be placed on the reemployment list for the class from which he was terminated. If a career employee wishes to be on the reemployment list for other classes of positions for which he is qualified and passes the appropriate selection method, he shall notify the ***cabinet***[~~department~~] in writing.

(2) If more than one (1) career employee requests to be placed on the reemployment list for any job classification, the ***cabinet***[~~department~~] shall list the names of such career employees in the order of their seniority.

(3) No vacancy may be filled from a competitive register until all career employees on the reemployment list for that class of position have denied employment in that class. An appointing authority may refuse to reemploy a qualified employee on the reemployment list only for cause. The ***secretary***[~~commissioner~~] and the employee shall be furnished with a written statement of the specific reasons for the refusal within ten (10) days following the appointing authority's refusal. The employee may appeal the appointing authority's action in accordance with KRS 18A.095 and 18A.100.

Section 34. KRS 18A.138 is amended to read as follows:

(1) To ensure equal employment opportunity for all Kentuckians regardless of race, color, religion, national origin,

disability, sex, or age, the affirmative action plan dated July 1, 1984, confirmed as part of Executive Order 84-549 continued in force by Executive Order 88-100, and incorporated herein by reference, shall be the official affirmative action plan for Kentucky state government. Copies of the plan, as well as the plans developed by individual agencies pursuant to the state plan, shall be maintained on file and made available for inspection in the Office of the ***Secretary***[~~Commissioner~~] of Personnel.

(2) Every program cabinet, department, and agency of state government shall comply with the provisions of the affirmative action plan.

(3) Equal employment opportunities shall be an integral part of each cabinet, department, and agency program, and any program evaluation shall include an assessment of equal opportunity performance.

(4) The ***secretary***[~~commissioner~~] of personnel shall be responsible for the implementation of the plan. In fulfilling his duties, he shall:

(a) Require all cabinets, departments, and agencies of state government to develop programs consistent with the plan;

(b) Provide any technical assistance he may deem appropriate to accomplish the purposes of the plan;

(c) Provide, through the[~~ Department of~~] Personnel ***Cabinet***, an annual analysis to ensure that persons protected by antidiscrimination laws are not adversely affected by examination and selection procedures;

(d) Provide for validation of examination procedures;

(e) Provide for procedures to monitor appointments and salary adjustments to ensure that standards are uniformly applied so as to prevent salary disparity;

(f) Report to the Governor semiannually on actions taken pursuant to the plan; and

(g) Review the plan on an annual basis and recommend necessary changes in consultation with the appropriate agencies.

(5) The ***secretary***[~~commissioner~~] of personnel may also:

(a) Promulgate administrative regulations in accordance with this chapter and KRS Chapter 13A to implement the affirmative action plan;

(b) Implement programs to ensure that reasonable accommodations exist for persons with disabilities to allow them better access to all employment opportunities in state government; and

(c) Appoint an affirmative action advisory committee to assist him in implementation of the affirmative action plan.

Section 35. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political or religious opinions or affiliations or ethnic origin or sex or disability. No person over the age of forty (40) shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) No employee in the classified service or member of the board or its executive director or ***secretary***[~~commissioner~~] shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service.

(4) No employee in the classified service or member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employees of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.

Section 36. KRS 18A.145 is amended to read as follows:

(1) No person shall make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment made under any provision of KRS 18A.005 to 18A.200 or in any manner commit or attempt to commit any fraud preventing the impartial execution of KRS 18A.005 to 18A.200 and the rules, regulations or orders thereunder.

(2) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable

consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

(3) No employee of the ***cabinet***[~~department~~], examiner, or other person shall defeat, deceive, or obstruct any person in his right to examination, eligibility, certification, or appointment under KRS 18A.005 to 18A.200, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

(4) No person shall make any false statement, record or report regarding hours, days, or other time worked by any employee. No person shall falsely prepare any payroll document or record relating to the pay for any employee.

Section 37. KRS 18A.150 is amended to read as follows:

(1) Any honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, shall have five (5) points added to his entrance examination score for classified positions. Any Kentucky National Guard member, or a former member of the Kentucky National Guard who has been honorably discharged, shall be entitled to the same number of points.

(2) Any honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, whom the Veterans Administration or any branch of the Armed Forces of the United States determines has service-connected disabilities, shall have ten (10) points added to his entrance examination score for a classified position.

(3) The spouse of an honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies him for positions along the general line of his usual occupation shall have ten (10) preference points added to his entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled war veteran recovers.

(4) Until remarriage, the surviving spouse of an honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, shall have ten (10) preference points added to his entrance examination score for a classified position. This includes the surviving spouse of any military personnel who died while in the Armed Forces, unless circumstances surrounding the death would have been cause for other than honorable discharge separation.

(5) A parent totally or partially dependent on a soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, and who lost his life under honorable conditions while on active duty or active duty for training purposes, or who became permanently and totally disabled as a result of a service-connected disability, shall have ten (10) preference points added to his examination score for a classified position.

(6) The preference points granted by subsections (1) through (5) of this section shall be added to entrance examination scores for classified positions only if the score is determined by the ***secretary***[~~commissioner~~] to be a passing score and after verification of the required service. The total of the entrance examination score and the preference points shall not exceed one hundred (100).

Section 38. KRS 18A.155 is amended to read as follows:

(1) The ***secretary***[~~commissioner~~] shall prepare and submit proposed administrative regulations to the Governor for employees in unclassified positions enumerated in paragraphs (g), (h), (i), (j), (k), (p), (u), and (v) of subsection (1) of KRS 18A.115. Such administrative regulations shall become effective after approval by the Governor and promulgation in accordance with KRS Chapters 12 and 13A. The administrative regulations shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the Governor, the ***secretary***[~~commissioner~~] shall allocate the positions of every employee in the unclassified service to one (1) of the classes of the plan. Any employee affected by the allocation of a position to a class shall, after filing with the ***secretary***[~~commissioner~~] a written request for reconsideration thereof in such manner and form as the ***secretary***[~~commissioner~~] may prescribe, be given a reasonable opportunity to be heard thereon by the ***secretary***[~~commissioner~~];

(b) For a pay plan for all aforementioned employees in the unclassified service, after consultation with appointing authorities and the secretary of Finance and Administration, and taking into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere; and
3. The state's financial resources.

Such pay plan shall become effective only after it has been approved by the Governor after submission to him by the ***secretary***[~~commissioner~~] through the secretary of Finance and Administration. Amendments to the pay plan may be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided in subsection (1) of this section;

(e) For the development and operation of programs to improve the work effectiveness and morale of employees in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employee relations; and

(f) For such other rules and administrative regulations, not inconsistent with KRS 18A.005 to 18A.200, as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of administrative regulations promulgated under this section on behalf of employees enumerated in paragraphs (a), (b), (d), (e) and (q) of subsection (1) of KRS 18A.115 and on behalf of members of state boards and commissions who work on a full-time, salaried basis.

Section 39. KRS 18A.160 is amended to read as follows:

(1) All office space, property and equipment including, but not limited to, desks, office supplies, typewriters, machinery and implements utilized at hearings and in recording and processing transcripts and other work of the board, heretofore used by the board, shall become the property of the board.

(2) All officers and employees of the Commonwealth and of all its municipalities and political subdivisions shall allow the ***cabinet***[~~department~~] and the board the reasonable use of public buildings under their control, and furnish heat, light and furniture for any examination, hearing, or investigation authorized by KRS 18A.005 to 18A.200. The ***cabinet***[~~department~~] and the board as appropriate shall pay to a municipality or political subdivision the reasonable cost of any such facilities furnished by it.

Section 40. KRS 18A.165 is amended to read as follows:

(1) All officers and employees of the Commonwealth shall comply with, and aid in all proper ways in carrying out, the provisions of KRS 18A.005 to 18A.200 and the rules, regulations, and orders of the board thereunder. All officers and employees shall furnish any records or information pertaining to the administration of KRS 18A.005 to 18A.200 which the ***secretary***[~~commissioner~~] or the board may request. The ***secretary***[~~commissioner~~] or the board may require the Attorney General to institute and maintain such legal action as the ***secretary***[~~commissioner~~] or the board may consider necessary or appropriate to secure compliance with KRS 18A.005 to 18A.200 and the rules and orders thereunder.

(2) The secretary of the Finance and Administration Cabinet may review and approve all proposed position establishments and abolishments. Reclassifications and reallocations may also be reviewed and approved by the secretary of the Finance and Administration Cabinet on the basis of the availability of funds. The Finance and Administration Cabinet shall notify the ***cabinet***[~~department~~] and the board of any review and approval conducted under the provisions of this section.

Section 41. KRS 18A.180 is amended to read as follows:

(1) Subject to the approval of the board, the ***secretary***[~~commissioner~~] may enter into agreements with any municipality or other political subdivision of the Commonwealth to furnish services and facilities of the ***cabinet***[~~department~~] to such municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the ***cabinet***[~~department~~], under contract, of the reasonable cost of the services and facilities furnished, as determined by the ***secretary***[~~commissioner~~]. All municipalities and political subdivisions of the Commonwealth are hereby authorized to enter into such agreements.

(2) The ***secretary***[~~commissioner~~] may cooperate with the governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of KRS 18A.005 to 18A.200.

(3) The ***secretary***[~~commissioner~~] may, upon the request of the secretary of the Cabinet for Human Resources and upon the approval of the board, furnish merit system services to "local" departments of health.

Section 42. KRS 18A.197 is amended to read as follows:

(1) The Commonwealth of Kentucky leave sharing program is created. An employee who has accrued a sick leave balance of more than seventy-five (75) hours may request that the appointing authority of the agency for which the employee works makes available for transfer a specified amount of his sick leave balance to another named employee authorized to receive leave under subsection (2) of this section. The employee may not request a transfer of an amount of leave that would result in reducing his sick leave balance to less than seventy-five (75) hours.

(2) An appointing authority, with the approval of the ***secretary***[~~commissioner~~] of personnel, may permit an employee of the

agency to receive leave under this section if:

(a) The employee or a member of his immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition which has caused, or is likely to cause, the employee to go on leave for at least ten (10) consecutive working days;

(b) The employee's need for absence and use of leave are certified by a licensed practicing physician;

(c) The employee has exhausted his accumulated sick leave, annual leave, and compensatory leave balances; and

(d) The employee has complied with administrative regulations governing the use of sick leave.

(3) The appointing authority, with the approval of the ***secretary***~~[commissioner]~~ of personnel, shall determine the amount of leave, if any, which an employee within his agency may receive under subsection (2) of this section. Transfers of leave shall not exceed the amount requested by the recipient.

(4) Leave may be transferred from an employee of one (1) agency to an employee within the same agency. With the approval of the ***secretary***~~[commissioner]~~ of personnel and of the appointing authorities of both agencies, leave may be transferred from an employee of one (1) agency to an employee of another state agency. The ~~[Department of]~~Personnel ***Cabinet*** shall maintain records of leave transferred between employees and the utilization of transferred leave.

(5) While an employee is on leave transferred under this section, he shall be deemed a state employee and shall receive the same treatment with respect to salary, wages and employee benefits.

(6) All salary and wage payments made to an employee while on leave transferred under this section shall be made by the agency employing the person receiving the leave.

(7) Any leave transferred under this section which remains unused shall be returned to the employees who transferred the leave when the appointing authority finds that the leave is no longer needed and will not be needed at a future time in connection with the illness or injury for which the leave was transferred to an employee in his agency.

(8) No employee shall directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with the employee's right to voluntarily contribute leave when authorized under this section. For the purpose of this subsection, "intimidate, threaten, or coerce" shall include, without being limited to, the promise to confer or the conferring of any benefit or effecting or threatening to effect any reprisal.

(9) The ***secretary***~~[commissioner]~~ of the~~[Department of]~~ Personnel ***Cabinet*** shall promulgate procedural administrative regulations to implement the provisions of this section.

Section 43. KRS 18A.202 is amended to read as follows:

The ***secretary***~~[commissioner]~~ is authorized to install and implement by administrative regulation work-related incentive programs for state employees. Such programs may include, but need not be limited to, an employee suggestion system whereby employees in the classified service may be recognized and rewarded for submitting suggestions that result in the improvement of state service or in the realization of financial savings by the state. Such programs may provide that when an employee suggestion has been adopted and resulted in a financial savings to the state, the employee who submitted the suggestion may be compensated for his service through a cash bonus in an amount to the lesser of ten percent (10%) of the amount saved or two thousand five hundred dollars ($2,500).

Section 44. KRS 18A.205 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet, upon the recommendation of the ***secretary***~~[commissioner]~~, may procure from one (1) or more life insurance companies, authorized to do business in this state, a policy or policies of group life insurance insuring the lives of all or any class or classes of state employees. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves whether or not otherwise permitted by the insurance laws. It is intended that life insurance may be made available for state employees, except that the procuring is permissive.

(2) The term "state employee," for purposes of KRS 18A.205 to 18A.215, shall mean a person who is regularly employed by any department, board, agency, or branch of state government, and who is also a contributing member of any one (1) of the retirement systems administered by the state; provided, however, that any federally funded time-limited employee may receive insurance coverage.

(3) The term "premiums," for the purposes of KRS 18A.205 to 18A.225, shall mean premiums to be paid on any type of insurance authorized under KRS 18A.205 to 18A.225.

Section 45. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education

and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state and including any federally-funded time-limited employee. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the ***secretary***[~~commissioner~~] of ***the*** Personnel ***Cabinet***, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the insurance or health maintenance organization coverage is provided or made available shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the ***secretary of the Personnel Cabinet***[~~commissioner of personnel~~], may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12) The ***secretary***[~~commissioner of personnel~~] shall appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the ***secretary***[~~commissioner~~] or his designee regarding the state health insurance program for state employees. The ***secretary***[~~commissioner~~] shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Supreme Court districts, members representing state government from each of the seven Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, and three (3) members at large. The ***secretary***[~~commissioner~~] shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

Section 46. KRS 18A.227 is amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) "Cafeteria plan" shall mean a flexible benefits plan which meets the requirements of Section 125 of the federal Internal Revenue Code;

(b) "Employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government, and who is a contributing member to any one (1) of the retirement systems administered by the state, and including a federally funded time-limited employee;

(c) "***Cabinet***[~~Department~~]" shall mean the[~~ Department of~~] Personnel ***Cabinet***;

(d) "Change in family status" shall have the same meaning as used in Section 125 of the Internal Revenue Code and regulations promulgated thereunder; and

(e) "Salary reduction contribution" means all employer contributions that are excludable from gross income under the Internal Revenue Code.

(2) As part of the employee benefits provided to state employees under this chapter, the ***cabinet***[~~department~~] may develop and make available to eligible employees a flexible benefits plan which meets the requirements for treatment as a cafeteria plan under Section 125 of the Internal Revenue Code. The plan shall be in writing and shall be available on an equal basis to all eligible employees within each county.

(3) Options available under the plan may include, but are not limited:

(a) Health care coverage;

(b) Health maintenance organization coverage;

(c) Catastrophic illness coverage;

(d) Dental insurance;

(e) Term life insurance-accidental, death, or dismemberment;

(f) Vision insurance;

(g) Long term disability insurance;

(h) Long term medical care; and

(i) Any other benefits which may be offered under the provisions of the Internal Revenue Code and which the ***cabinet***[~~department~~] determines to be in the best interests of state employees.

(4) Any employee who desires to participate in options offered under the plan, may direct that any options elected shall be funded through payroll deduction. The election shall be made in writing; and once an option is chosen, it shall not be changed until the end of the period for which election is made unless the employee experiences a change in family status which necessitates a revision of his benefit election.

(5) Any employee contributions required toward the purchase of the selected options shall be made by a salary reduction contribution, to the extent the benefits would be considered to be tax-free under Chapter 1 of the Internal Revenue Code, and by after-tax salary deduction where the elected option is not tax-free.

Section 47. KRS 18A.2281 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 18A.225, the[~~ Department of~~] Personnel ***Cabinet*** may establish a state employee benefit fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the secretary of the Finance and Administration Cabinet as provided in KRS 18A.225(2) or 18A.2251. All moneys remaining in this fund at the end of the fiscal year, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, shall not lapse, and shall be continuously appropriated only for the purposes specified in this section.

(2) Benefits provided under this section include, but are not limited to, hospitalization, surgical care, and major medical care for state employees and their dependents.

(3) The contributions made to the benefit fund may be paid:

(a) Wholly from funds contributed by the covered employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any amount due over that contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for coverage shall be paid by the employee.

(4) No contribution by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for purposes of any statute fixing or limiting the compensation of such employee. Any expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions as the[~~ Department of~~] Personnel ***Cabinet*** may approve.

(6) Group rates under the health care coverage provided under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

Section 48. KRS 18A.2282 is amended to read as follows:

(1) The state employee benefit fund shall be under the custody and supervision of the [~~Department of~~]Personnel ***Cabinet***. The ***cabinet***[~~department~~] shall be responsible for all moneys coming into, and paid out of, the fund in accordance with this section, and shall ensure that the fund is actuarially sound.

(2) In carrying out its duties and responsibilities, the[~~ Department of~~] Personnel ***Cabinet*** shall:

(a) Adopt rules with regard to the administration of the state employee benefit fund;

(b) Adopt rules governing the conditions under which an employee may participate in or withdraw from the fund, and the procedure by which an employee is to contribute to the fund;

(c) Adopt rules to ensure that the fund is actuarially sound;

(d) Adopt rules to ensure the integrity of the fund, and to ensure that the fund be used solely for the purposes specified in this section;

(e) Purchase conversion insurance, reinsurance or excess insurance as deemed appropriate; and

(f) Contract, when advisable, with health providers for services as may best serve the interest of the fund.

(3) Amounts withheld from employees, amounts contributed by the state or from federal funds, and all amounts contributed by any state authority, shall be credited to and constitute a part of the state employee benefit fund. All other income, including the income derived from any dividends and distributions, and interest earned, shall also be credited to and constitute part of the fund. Any amounts remaining in the fund after all the premiums or subscription charges, and other expenses have been paid, shall be retained in the fund as a special reserve for adverse fluctuation.

(4) (a) The State Treasurer, with approval of every investment by the Finance and Administration Cabinet, may invest the state employee benefit fund in:

1. Obligations of the United States government, its agencies, and Kentucky cities of the first, second, third and fourth classes;

2. Warrants issued on the State Treasurer;

3. State bonds, including bridge revenue bonds issued under KRS 180.010 to 180.250;

4. Bonds or other evidences of indebtedness of any domestic corporation that is an agent or instrumentality of the state or of any city, county or school district of the state, secured by a mortgage on real estate in Kentucky that has been conveyed to the corporation by any city, county, school district or state educational institution, and which the corporation has leased and given the option to lease to the city, county, school district, or state educational institution, with option in the lessee to purchase the property, or an interest therein, on the payment of the aggregate sum of the bond issue, plus the expenses incident to the issuance of the bonds and the formation and dissolution of the corporation, subject to credit of the amounts paid as rental for such property; and

5. School bonds issued by cities under KRS 162.120 to 162.290.

(b) The Finance and Administration Cabinet shall not approve investments on which there has ever been a default in payment of principal or interest preceding the date of acceptance by the State Treasurer.

(c) All income derived from the investments shall accrue to the fund.

(d) Any necessary and reasonable cost incurred by the State Treasurer in administering this program shall be charged against the fund.

(5) (a) The[~~Department of~~] Personnel ***Cabinet*** shall file annually, by the first day of October, a complete report of its operations for the preceding calendar year conducted pursuant to this section, with the Governor, the General Assembly, and the State Auditor of Public Accounts. The financial information required by this section shall be verified by the auditor of public accounts as provided in KRS 43.050.

(b) The report shall include a detailed financial statement of the fund and the expenses incurred pursuant to this section so that the cost of the fund established under this section can be determined and identified. The report shall include, but not be limited to, the following information concerning the fund:

1. Assets and liabilities;

2. Income and expenditures;

3. Benefits paid and reserves for losses incurred but not yet paid, including potential losses and unreported losses;

4. Cost of any excess insurance, conversion coverage, reinsurance, or of any other kind of insurance obtained to cover potential losses, or provide supplemental benefits;

5. Direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees.

(c) The report shall also contain the following information:

1. The actuarial report for the preceding calendar year and any other studies or evaluations prepared in the preceding year pursuant to subsection (6) of this section;

2. A description of the benefits provided by the fund and the number of state employees covered under the fund;

3. The rights of state employees who terminate their employment and the extent of benefits or coverages thereafter available to those persons and their dependents; and

4. Any other information which is relevant in order to make full, fair, and effective disclosure of the operations of the fund conducted pursuant to this section.

(6) The[~~Department of~~] Personnel ***Cabinet*** shall have prepared every year, by a competent actuary familiar with health insurance, a report showing a complete actuarial evaluation of the fund and the adequacy of the rates of contribution, which report shall contain such recommendations as the actuary considers advisable. The department may at any time request the actuary to make any studies or evaluations to determine the adequacy of the rates of contribution, and such rates may be adjusted by the department, as recommended by the actuary, effective as of the first of any fiscal year

thereafter.

Section 49. KRS 18A.2284 is amended to read as follows:

The[~~ Department of~~] Personnel ***Cabinet*** shall determine the date on which the self-funded health plan option shall be made available to state employees. The date of the initial enrollment period shall be within a reasonable time after July 15, 1988.

Section 50. KRS 18A.245 is amended to read as follows:

(1) The ***authority***[~~system~~] shall be administered by a board of trustees composed of ***seven(7)***[~~four (4)~~] members, who shall be as follows:

(a) Secretary, Finance and Administration Cabinet, ex officio;

(b) ***Secretary***[~~Commissioner~~] of personnel, ex officio;

(c) ***The state controller, ex officio; and***

(d) Four (4) at-large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall be a representative of a non-state government employer[~~Two (2) members appointed by the Governor of the Commonwealth. Of these two (2) members, it is recommended that one (1) be the general manager of Kentucky retirement systems~~].

(2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.

(3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.

(4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of forty-five dollars ($45) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.

(6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

(7) The[~~ Department of~~] Personnel ***Cabinet*** shall perform the administrative functions of the board, which shall be attached to the ***cabinet***[~~department~~] for purposes of administration ***only***. The board may, but is not limited to the following actions:

(a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the ***secretary. The executive director of the authority and employees appointed by the board shall serve at its will and pleasure. All other staff of the authority shall be employed under KRS 18A.005 to 18A.200***[~~commissioner~~];

(b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;

(c) Establish a system of accounting;

(d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;

(e) Do all things, take all actions***, and adopt plans for participation consistent with federal requirements*** and[~~ make all rules and administrative regulations, not inconsistent~~] with the provisions of KRS 18A.230 to 18A.275.

(8)[~~ All employees of said board shall serve during its will and pleasure.~~

~~(9)~~] The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.

(9)[~~(10)~~] The board shall prepare an annual financial report showing all receipts, disbursements, assets***,*** and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.

Section 51. KRS 18A.250 is amended to read as follows:

(1) ***The authority***[~~Subject to the approval of the board of trustees of the Kentucky State Public Employees Deferred Compensation System, the Department of Personnel~~] shall establish and maintain a deferred compensation plan for the employees of the State of Kentucky. Participation in such plan shall be by a specific written agreement between such employees and the ***authority***[~~state~~] and shall provide for the deferral of such amount of compensation as requested by the employee. Participating employees must authorize that such deductions be made from their wages for the purpose of participation in such program. Amounts so deducted shall be deposited in the State Treasury to the credit of the trust

fund.

(2) The board is directed to develop and obtain, for the benefit of employees, a qualified employee plan that includes a qualified cash or deferred arrangement as described in Section 401(K)(2) of the Internal Revenue Code. The board is directed to develop a program for participants to borrow from their account or accounts in the plan. The plan shall be in addition to other plans offered by the board, and shall be offered to employees upon receipt of appropriate approval of the Internal Revenue Service or on January 1, 1985, whichever occurs later.

Section 52. KRS 18A.375 is amended to read as follows:

(1) There is hereby established a state employee workers' compensation fund which shall be administered by the ***Personnel Cabinet's Division of Employee Benefits***[~~Department of Personnel's Division of Benefits Administration~~]. The purpose of this fund shall be to self-insure workers' compensation benefits for state employees.

(2) All moneys contributed by participants of the fund, or derived from federal funds, shall be credited to and constitute a part of the state employee workers' compensation fund.

(3) The State Treasurer, with the approval of the Finance and Administration Cabinet, may invest the state employee benefit workers' compensation fund. Any income derived from these investments, or dividends, shall be credited to and become a part of the general fund. Any moneys remaining in the fund after all claims, premiums or subscription charges, and other expenses have been paid, shall be retained in the fund. All moneys remaining in the state employee workers' compensation fund on July 1, or deposited thereafter, shall be deemed a trust and agency account and shall not lapse, but shall be continuously appropriated only for the purposes specified in KRS 18A.375 to 18A.385.

Section 53. KRS 18A.380 is amended to read as follows:

The[~~ Department of~~] Personnel ***Cabinet*** shall promulgate administrative regulations necessary for the administration of the state employee workers' compensation fund established by KRS 18A.375, the actuarial soundness of the fund, the integrity of the fund, the purchase of reinsurance or excess insurance, and the expenditure of moneys from the fund.

Section 54. KRS 18A.385 is amended to read as follows:

At least every two (2) years, the[~~ Department of~~] Personnel ***Cabinet*** shall have an actuary familiar with workers' compensation insurance prepare an actuarial analysis of the state employee workers' compensation fund established by KRS 18A.375 and make any recommendation that he deems appropriate. The department may, at any time, request an actuary to evaluate the adequacy of the rates of contribution. These rates may be adjusted if the adjustment is recommended by the actuary.

Section 55. KRS 18A.405 is amended to read as follows:

(1) There is created a Personnel Steering Committee which shall be attached to the Finance and Administration Cabinet for administrative purposes. The[~~ Department of~~] Personnel ***Cabinet*** shall provide technical assistance and support services to the committee.

(2) The membership of the Personnel Steering Committee shall be appointed by the Governor and shall consist of:

  (a) Two (2) members from the Governor's Commission on Quality and Efficiency established by Executive Order 93-282. At least one (1) of these members shall also be a member of the Career Service System Task Force created by Executive Order 93-1139;

  (b) Two (2) members from private industry, at least one of whom shall also be a member of Career Service System Task Force;

  (c) One (1) employee with status who has at least ten (10) years of experience in an Executive Department agency other than the[~~ Department of~~] Personnel ***Cabinet***;

  (d) One (1) employee with status in a management classification in an Executive Department agency other than the[~~ Department of~~] Personnel ***Cabinet***;

  (e) Two (2)[~~ Department of~~] Personnel ***Cabinet*** employees with status who have personnel system experience; and

  (f) One (1) member who is either a member of the Personnel Board, or a member of its staff.

(3) No less than four (4) nor more than six (6) of the persons appointed to serve on the Personnel Steering Committee shall be employees with status under this chapter.

(4) The employees with status under this chapter who are appointed to the Personnel Steering Committee shall be appointed by the Governor from lists provided by state employee organizations as set forth in this subsection. Any state employee organization having at least two hundred fifty (250) members as of January 1, 1994, may submit the names of two (2) employees with status to the Governor on or before fifteen (15) days after July 15, 1994. The Governor shall select the appointees from a list that is comprised of names of employees submitted by all of the state employee organizations as provided by this subsection which have been compiled into a single list.

(5) The committee's chairman shall be elected by and from the members of the committee for a one (1) year term at the first meeting of the committee and annually thereafter.

(6) If they are not reimbursed by a state agency in which they are employed, Personnel Steering Committee members shall

be reimbursed for travel to meetings at the established state rate for travel expenses from the budget of the Finance and Administration Cabinet.

Section 56. KRS 18A.420 is amended to read as follows:

Within thirty (30) days of July 15, 1994, the Personnel Steering Committee shall begin accepting applications for pilot personnel programs from organization units within eligible Executive Department agencies. Prior to final approval of a pilot program, the committee shall consult with the ***secretary***[~~commissioner~~] of the[~~ Department of~~] Personnel ***Cabinet***. After consulting with the ***secretary***[~~commissioner~~], the committee shall make its final selections and report them to the Career Service System Task Force. Upon notification by the steering committee, the ***secretary***[~~commissioner of the Department of Personnel~~] shall take any administrative action deemed necessary to accomplish the implementation of the selected programs.

Section 57. KRS 18A.435 is amended to read as follows:

An employee in a pilot program may submit a request to the ***secretary***[~~commissioner~~] of the[~~ Department of~~] Personnel ***Cabinet*** for transfer to another state position if a vacancy in that position exists. The ***secretary***[~~commissioner~~] shall make every effort to accommodate this request.

Section 58. KRS 32.031 is amended to read as follows:

Each Circuit Judge may employ a secretary. The secretary shall be appointed by and shall hold office at the pleasure of the judge. The salary for the secretary, payable out of the State Treasury, shall be commensurate with the secretary's education, training and experience based upon the guidelines established by the classification and compensation plan for comparable positions maintained by the state[~~ Department of~~] Personnel ***Cabinet*** pursuant to KRS 64.640. Persons employed as secretaries to Circuit Judges shall be members of the Kentucky Employees Retirement System in accordance with the provisions of KRS 61.510 to 61.692.

Section 59. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

- (a) The ***secretary of the Personnel Cabinet***[~~commissioner of personnel~~] shall serve as trustee for as long as he occupies the position of ***secretary***[~~commissioner~~] under KRS 18A.015, except as provided under subsections (5) and (6) of this section;
- (b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;
- (c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
- (d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and
- (e) Three (3) trustees, appointed by the Governor of the Commonwealth, one (1) of whom shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to, the following powers:

- (a) To sue and be sued in its corporate name;
- (b) To make bylaws not inconsistent with the law;
- (c) To conduct the business and promote the purposes for which it was formed;
- (d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require;
- (e) To purchase fiduciary liability insurance;
- (f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and
- (g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board;

- (b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate, not less than six (6) months before a term of office of a trustee is due to expire, at least three (3) constitutionally-eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the ***secretary of the Personnel Cabinet***[~~commissioner of personnel~~] resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the ***secretary of the Personnel Cabinet***[~~commissioner of personnel~~];

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting;

(e) Expend funds for goods and services pursuant to the provisions of KRS Chapter 45A as they apply to state agencies, but if the board designates an emergency by letter to the secretary of the Finance and Administration Cabinet, the secretary shall within thirty (30) days of submission approve or reject a proposed personal service contract submitted to him by the board pursuant to KRS 45A.045. If the secretary rejects the proposed contract, he shall provide a detailed written statement of his reasons therefor. If the secretary fails or refuses to act within the thirty (30) day period, the proposed contract shall be deemed approved without further action pursuant to KRS 45A.045; and

(f) Do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 conform with federal statute or regulation. Provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 which conflict with federal statute or regulation shall not be available to the member. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation.

(10) All employees of the board shall serve during its will and pleasure.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful

misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

Section 60. KRS 41.165 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 337.010 through 337.070 and 41.160, the Treasurer shall pay, by electronic fund transfer, the wages of any state employee who makes a prior written request to the Department of the Treasury to be paid by electronic fund transfer. The Treasurer may refuse to comply with the request of an employee if the financial institution designated by the employee does not have the capability of receiving electronic transfers of funds.

(2) The~~[Department of]~~ Personnel ***Cabinet*** shall provide forms on which to request wage payments by electronic transfer of funds. The~~[Department of]~~ Personnel ***Cabinet*** may, by regulations promulgated pursuant to KRS Chapter 13A, require information on the request forms for wage payment by electronic transfer of funds that sufficiently identifies the employee and the designated financial institution of the employee.

(3) Any state agencies which employ persons who have exercised the option authorized by subsection (1) of this section shall retain the forms described in subsection (2) of this section.

Section 61. KRS 41.360 is amended to read as follows:

(1) Where any officer or employee of the state government or of any agency of the state government has authorized the State Treasurer to deduct from his compensation as such officer or employee a sum or sums for the purchase of United States Series E savings bonds, and thereafter, for any cause, has departed from such office or employment leaving unclaimed in the hands of the State Treasurer a sum arising from such deduction not equal to the amount for which such a bond may be purchased, the State Treasurer shall, within ninety (90) days after the date of the last deduction, mail to such officer or employee, at his last-known address as shown on the records of the~~[Department of]~~ Personnel ***Cabinet***, a notice stating the sum held by the State Treasurer for such officer or employee, and requesting that he make claim for the same within six (6) months thereafter. A duplicate of such notice, addressed to the officer or employee, shall at the same time be delivered to the state agency of which the person was an officer or employee. If, at the expiration of six (6) months from the date of mailing the letter, the officer or employee has not made claim for the sum due him, the sum shall, as of July 1 following the expiration of such six-months' period, be presumed abandoned.

(2) On or before September 1 of each year the State Treasurer shall report to the Revenue Cabinet, in duplicate, a list of the sums presumed to be abandoned as of the preceding July 1, giving the name of the officer or employee and his last-known address. The Revenue Cabinet shall cause the report to be posted and published as provided in KRS 393.110. If, by November 15 following such posting and publication, the sums involved have not been claimed, the State Treasurer shall place the sums to the credit of the general fund in the State Treasury and shall report that fact to the Revenue Cabinet. Thereafter such sums shall have the same status as other property turned over to the Revenue Cabinet as provided in KRS 393.110, and the rights of any person to make claim for the same shall rest upon the same principles as the rights of other claimants of property presumed to be abandoned under the provisions of KRS Chapter 393.

Section 62. KRS 42.0245 is amended to read as follows:

(1) There is established within the Department for Administration in the Finance and Administration Cabinet the Division of Risk Management. The division shall be headed by a director who shall be appointed by the secretary of the Finance and Administration Cabinet subject to the approval of the Governor.

(2) The Division of Risk Management shall:

(a) Oversee and assist the management of the state fire and tornado insurance fund established in KRS Chapter 56;

(b) Develop and manage programs of risk assessment and insurance for the protection of state property not covered by the state fire and tornado insurance fund;

(c) Advise the secretary of the Finance and Administration Cabinet on the fiscal management of programs relating to life insurance, workers' compensation, and health care benefits for state employees, including, but not limited to, assisting and monitoring the development of a program of health care self-insurance for state employees as authorized under KRS 18A.2281 and 18A.2282;

(d) Serve as the central clearinghouse for coordinating and evaluating existing and new risk management programs within all state agencies;

(e) Develop financing techniques for risk protection; and

(f) Develop and implement other risk management, insurance, and self-insurance programs or other functions and duties as the secretary of the Finance and Administration Cabinet may direct the office to undertake and implement within the general statutory authority and control of the Finance and Administration Cabinet over state property and fiscal affairs of the executive branch of state government, including, but not limited to, those areas pertaining to tort and contractual liability, fidelity, and property risks.

(3) Nothing in this section shall be construed or interpreted as affecting the operation of the employee benefit programs generally administered by the Division of ***Employee*** Benefits~~[Administration]~~ within the~~[Department of]~~ Personnel ***Cabinet*** and of the State Risk and Insurance Services programs administered by the Department of Insurance. However, both of those departments shall coordinate the operation of life insurance, workers' compensation, health care benefit programs, and other self-insured programs with the Division of Risk Management.

(4) All cabinets, departments, boards, commissions, and other state agencies shall provide to the Division of Risk Management the technical advice and other assistance the Division of Risk Management or the secretary of the Finance and Administration Cabinet shall request in the performance of the functions of the division as described in this section.

(5) The secretary of the Finance and Administration Cabinet shall have the power and authority to promulgate administrative regulations pursuant to KRS Chapter 13A for purposes of implementing a risk management program for the executive branch of state government. Any administrative regulations promulgated by the secretary shall be administered by the Division of Risk Management.

Section 63. KRS 43.030 is amended to read as follows:

(1) The Auditor shall appoint for the duration of his own term, subject to removal by him at any time, one (1) assistant auditor of public accounts, who shall be a certified public accountant and who has been a citizen and resident of the state for at least two (2) years. The assistant auditor shall have direct supervision over all technical work and technical assistants, and shall otherwise aid the Auditor in the performance of his duties. If the Auditor is absent or is rendered incapable of performing his duties, or if a vacancy in the office occurs, the assistant auditor shall perform the duties of Auditor until the necessity therefor ceases to exist. He shall take the constitutional oath.

(2) The Auditor may employ other subordinate personnel subject to the provisions of KRS 12.060. All employees engaged in auditing or investigations shall possess a minimum of a four (4) year college degree and no less than ninety percent (90%) of the professional staff shall have twenty (20) semester hours or thirty (30) quarter hours of accounting, or alternately, shall be a certified public accountant. Not more than two (2) persons charged with the conduct of audits and investigations may substitute year-for-year responsible experience acceptable to the~~[Department of]~~ Personnel ***Cabinet*** for the required college education and accounting hours.

(3) The Auditor and his sureties are liable on his official bond for the acts of the assistant auditor and clerks.

(4) Nothing in this section shall be deemed to affect the provisions of KRS 11.090 or other legislation authorizing audits.

Section 64. KRS 61.012 is amended to read as follows:

No person shall be qualified to hold any appointive state office or position, made by gubernatorial appointment, until the person provides the ***secretary***~~[commissioner]~~ of the~~[Department of]~~ Personnel ***Cabinet*** with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that his appointment to a state office or position will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Section 65. KRS 61.526 is amended to read as follows:

(1) Each employee on becoming a member of the Kentucky Employees Retirement System shall have on file in the retirement office, in the form as the board may prescribe, a statement of facts pertaining to the member. The statement shall include a record of military service, previous employment with the employer, and such other information as the system may require.

(2) If the records of the~~[Department of]~~ Personnel ***Cabinet*** or the department employing the member during the time the service was rendered do not substantiate the statement of service, the member shall be notified of any discrepancy. The member shall be advised that he has the responsibility of supplying verification of any unsubstantiated service.

(3) At the request of the member, or the beneficiary if the member is deceased, the general manager shall arrange a time and place to receive additional information in regard to the unverified service. After filing the request, the member or the beneficiary if the member is deceased, shall have a reasonable time but no more than six (6) months to present the additional information to substantiate the unverified service.

(4) The system may at any time conduct an audit of the employing department pursuant to KRS 61.675.

Section 66. KRS 61.543 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless the employee did not elect to become a member as provided by subsection (2) of KRS 61.525, or unless the employee did not elect membership pursuant to KRS 61.545(3). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4). Service credit will be allowed for each month the contributions are deducted or picked up during a fiscal or calendar year;-if the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employee contributions shall not be deducted from the creditable compensation of an employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555;

(b) A member on educational leave, approved by the~~[Department of]~~ Personnel ***Cabinet***, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay employee contributions, or the contributions shall be picked up in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded; and

(c) An employee on educational leave, approved by the appointing authority, not to exceed one (1) year, or with additional approval of one (1) additional year, and not to exceed two (2) years within a five (5) year period, who is receiving a salary of less than seventy-five percent (75%) of full salary, may elect to retain membership in the system during the period of leave. If the employee elects to retain membership in the system, he shall receive service credit by having employee contributions picked up in accordance with KRS 61.560. His employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the employee and employer contributions paid or picked up during the period of educational leave shall be refunded to the contributor and no service credit shall be earned for the period of leave.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 61.575.

(5) Notwithstanding the provisions of this section and KRS 61.560, employees engaged pursuant to KRS 148.026 and 56.491 in a regular full-time position as defined in KRS 61.510(21) prior to January 1, 1993, shall be allowed service credit for each month the employee received creditable compensation for an average of one hundred (100) or more hours of work, if the employee pays to the retirement system the contributions that would have been deducted for the period of employment. The contributions shall be credited to the member's contribution account and shall not be picked up pursuant to KRS 61.560(4). The employer contributions for the period, plus interest calculated at the actuarial rate, shall be due within thirty (30) days of notice of receipt of payment from the employee.

Section 67. KRS 61.596 is amended to read as follows:

(1) Any employee hired on or before January 1, 1988, who is a participating member of the Kentucky Employees Retirement System and who has service credit in the retirement system as prescribed in KRS 61.559(2)(a), (b), (c), or (d), or any employee hired on or before January 1, 1988, who is participating in the State Police Retirement System and who meets the requirements of KRS 16.505(15) or (20) may receive additional service credit equal to ten percent (10%) of his actual service credit prior to the addition of service credit for accrued sick leave as provided in KRS 61.546. Any employee of a parted employer hired on or before January 1, 1988, who meets the requirements of KRS 61.559(2)(e) may also receive additional service credit equal to ten percent (10%) of his actual service credit earned while actually participating in the system, prior to the addition of service credit for accrued sick leave as provided in KRS 61.546.

(2) The additional service credit provided in subsection (1) of this section shall be used in determining the member's monthly retirement allowance. The additional service credit shall not be used in determining the member's eligibility for medical insurance under KRS 61.702 or in determining the reduction in benefits under KRS 61.595(2).

(3) The employee shall submit a notification of retirement as prescribed in KRS 16.576(1) or 61.590(1) no earlier than July 15, 1988, and no later than September 30, 1988, except that the provisions of this section shall not apply in the case of disability or in the event the employee dies prior to filing a notification of retirement within the prescribed time period. The employee shall also notify the agency or department in which he is employed and the~~[Department of]~~ Personnel ***Cabinet*** of his intent to retire under the provisions of this section. The effective date of retirement under this section shall be the first of the month following termination of employment, except that the retirement date shall not be earlier than August 1, 1988, and not later than November 1, 1988. The employee may void his decision to retire under the provisions of this section if he does so in writing to retirement systems, the~~[Department of]~~ Personnel ***Cabinet*** and his agency or department no later than September 30, 1988.

(4) The retirement system's actuary shall determine the actuarial cost of the additional service provided in subsection (1) of this section for each employee and the cost shall be paid by the agency or department from which he terminates employment. The money paid by the agency or department shall be added to the retirement allowance account of the retirement system from which the member draws his retirement allowance and shall not be considered accumulated contributions of the member. The agency or department shall submit payment for the cost of such service upon the last day of the month in which the member terminates or in two (2) installments. If the agency or department elects to pay the cost in two (2) installments, the agency shall pay an amount equal to fifty and four hundred and eighty-one thousandths percent (50.481%) of the total cost upon the member's termination date and within ninety (90) days of that date.

(5) Any employee retiring under the provisions of this section shall forfeit the additional service provided in subsection (1) of this section if he is reemployed, earning more than the Federal Social Security Act maximum for a retired person with an agency participating in the retirement system from which he retired, within a period of time equal to the amount of additional service he received under subsection (1) of this section.

(6) The Kentucky Retirement Systems shall notify all employees eligible for the provisions of this section, the~~[Department of]~~ Personnel ***Cabinet*** and each eligible employee's agency of the provisions of this section by May 1, 1988. The Kentucky Retirement Systems shall conduct regional seminars between June 1 and July 31, 1988, to explain the provisions of this section and shall, upon the request of the eligible employee, provide an estimate of his benefits under this section.

(7) The purpose of this section is to bring expenditures in line with general fund revenues. No discrimination is intended by this section against any present or future employees. It is the intent of this section to encourage those employees nearing retirement to elect retirement as a voluntary service to the Commonwealth.

Section 68. KRS 61.640 is amended to read as follows:

(1) If an employee who is of normal retirement age or greater is in the active employment of a participating agency, or on official leave from the agency, if the leave has been granted in accordance with the policy of the State~~[Department of]~~ Personnel ***Cabinet***, with service credit of forty-eight (48) months or more, at least twelve (12) of which are current service, or if an employee of less than normal retirement age is in the active employment of a participating agency or on official leave from the agency, if the leave has been granted in accordance with the policy of the State~~[Department of]~~ Personnel ***Cabinet***, with service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been issued by the State Treasurer and has on file at the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(2) If a member not in the active employment of a participating agency, nor on official leave from the agency, with the service and age prescribed in KRS 61.559(2), dies before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(3) If a member, not in the active employment of a participating agency nor on official leave from the agency, with twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2), or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty percent (50%), and the actuarial equivalent payable for sixty (60) months certain and one

hundred twenty (120) months certain and the actuarial equivalent refund shall be determined.

(5) If the member, subject to subsection (1), (2), (3), or (4) of this section had on file in the retirement office a written designation of multiple beneficiaries, his estate, trust, or trustee, the multiple beneficiaries by consensus, the administrator, or executor of the estate, or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsections (1), (2), (3), or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.

(6) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent to the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's for a period of sixty (60) months.

(7) In the case of a single beneficiary, who is a person, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity or for payments for sixty (60) months certain or for payments for one hundred twenty (120) months certain or for the actuarial equivalent refund or for the beneficiary Social Security payment shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.

(8) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

Section 69. KRS 61.950 is amended to read as follows:

(1) The commission shall meet at least four (4) times each year and report its findings no less than semiannually to the Legislative Research Commission and the Governor. All reports of the commission shall be made available to the general public. In addition, the commission, upon the call of its officers, may hold meetings at any time it deems necessary.

(2) The commission's roles and duties shall include the following:

(a) Providing overall leadership, policy direction, strategic planning, and coordination of information resources management for the executive branch of state government and public universities;

(b) Formulation of a five (5) year statewide information resources management plan, to be updated every two (2) years, from long-range information resources management plans submitted by agencies of the executive branch, including the public universities, as the commission may require;

(c) Defining, maintaining, and publishing a timely information resources management architecture relating to the management of information resources by executive branch state agencies, and implementing processes and procedures to ensure compliance with the information resources management architecture;

(d) Coordinating, through policy and interagency agreements and monitoring, an appropriate program of training and education for executive branch state and local agencies regarding strategic information systems planning, and the selection and use of information technologies to facilitate effective information resources management, appropriate employee skill building, and career development;

(e) Promoting executive level awareness, support, and involvement with information resources management throughout the executive branch of government;

(f) Reviewing and approving or disapproving, in whole or part, executive branch agency five (5) year strategic information resources plans, and forwarding those plans with findings and recommendations to the agency head, the Governor's Office for Policy and Management, and the Legislative Research Commission for use during the preparation and enactment of the biennial budget. Commission review shall be based upon the extent to which the plan is compliant with statewide information resources standards, policies and guidelines; is suited to supporting the mission of the agency; and furthers implementation of statewide initiatives identified in the statewide plan. As part of the review process, the commission shall monitor and evaluate the progress of the current plan and the executive branch agency's use of information technologies and shall include its assessment of these activities in the findings and recommendations;

(g) Identifying and assessing opportunities for multiagency development and use of information resources, or the development of executive branch agency projects which would improve the quality and availability of information. When identifying these opportunities the commission may require executive branch agencies to evaluate the opportunities as alternatives to their own plans, and may forward these findings as provided in paragraph (f) of this subsection;

(h) Maintaining supportive relationship and coordinating activities with the adjunct Communications Advisory

Council provided for in KRS 61.955 and 61.957, and the Geographic Information Advisory Council established by Executive Order 92-1049, October 1, 1992, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, information technology;

(i) Establishing and maintaining relationships with other planning organizations as necessary to ensure coordination and implementation of comprehensive statewide strategies involved with, or affected by, information technology;

(j) Reviewing and recommending to the~~[Department of]~~ Personnel ***Cabinet*** and other associated agencies appropriate job classifications related to information resources management, to include both technical and managerial positions;

(k) Establishing and maintaining an information dissemination service or clearinghouse for:

1. Current practices of state agencies regarding information resources management;
2. Emerging and advancing information resources technologies;
3. Information resources vendor performance in the public sector;
4. Technical resources in the Commonwealth; and
5. Elements of the information resources management architecture;

(l) Establishing and maintaining research and development capacity for beneficial applications of information resources technology for the state's public sector, which includes:

1. Conducting research on current and emerging information resources technologies and their potential to enhance governmental services; and
2. Sponsoring and evaluating pilot projects to assist with the successful adoption by other state agencies;

(m) Fostering and encouraging the interest and cooperation of the state information resources technology community for improvement and enhancement of public services delivery;

(n) Serving as catalyst for information technology advancements in the public sector;

(o) Recommending procedures and legislation to improve the accessibility of machine readable public records by state agencies, citizens, and businesses; and

(p) Recommending procedures and legislation to ensure the privacy of individuals, with particular emphasis on the potential for invasion of individual privacy.

(3) Nothing in KRS 61.940, 61.945, or this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

(4) The commission may promulgate necessary administrative regulations for the furtherance of this section.

(5) The commission may establish committees or work groups composed of commission and noncommission members as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Persons connected with the automated information and communications resources industries, as specified in KRS 61.945, may participate on committees or work groups, but shall not have a vote.

(6) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.

Section 70. KRS 62.170 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position form, to cover all other officers, employees or deputies of the Commonwealth of Kentucky, including all judges, clerks and employees of the Court of Justice, including all other members of boards or commissions or employees of such boards or commissions, and including all superintendents, receivers or employees of penal or eleemosynary institutions managed or directed by the Justice Cabinet, Cabinet for Human Resources or any other department or agency of the Commonwealth of Kentucky. Nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency or institutional basis.

(2) The secretary of the Finance and Administration Cabinet may secure one (1) or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he may deem necessary by the exposures indicated in accordance with the duties and responsibilities indicated by the personnel classification schedules of the~~[Department of]~~ Personnel ***Cabinet*** and, for Court of Justice officers and personnel, by the Administrative Office of the Courts and in accordance with the amounts of money and property handled by the respective officers and employees.

(3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the Department of Insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. Such bonds may be written with or without cosureties. Further, such bonds are to be a percentage of the total risks, the Department of Insurance to approve the amount of the risk written by any one (1) company.

(4) The penal amount of the bond secured pursuant to this section shall be fixed by the secretary of the Finance and Administration Cabinet in accordance with the duties and responsibilities indicated by the personnel classification schedules of the[~~ Department of~~] Personnel ***Cabinet*** and, for Court of Justice officers and personnel, by the Administrative Office of the Courts, and in accordance with the amounts of money and property handled by the respective officers and employees.

Section 71. KRS 64.640 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, employees of the General Assembly, including employees of the Legislative Research Commission, members of boards and commissions, those officers and employees of Kentucky Educational Television exempt from classified service as provided in KRS 18A.115, presidents and employees of the state universities and the state colleges, and persons employed by the commissioner of parks on a temporary basis under KRS 148.026, the[~~ Department of~~] Personnel ***Cabinet*** shall prepare a schedule of compensation, payable out of the State Treasury, with a minimum and maximum salary rate, and such intermediate salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employee, including specifically the offices and positions of employment in every constitutional administrative department, statutory administrative department, independent agency, or other unit of state government. Such schedules shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the[~~ Department of~~] Personnel ***Cabinet*** shall ascertain and record the duties, responsibilities and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110, 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become effective until it has been approved by the Governor.

(2) The Governor shall set the compensation payable out of the State Treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent agency, or other unit of state government except for those excluded under subsection (1) of this section. Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the Governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed the amount provided for compensation to the Governor in KRS 64.480, the provisions of KRS 64.660 to the contrary notwithstanding.

(3) The compensation payable out of the State Treasury to officers and employees subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employees of the Public Service Commission of Kentucky whose compensation shall be fixed, within constitutional limits, by the[~~ Department of~~] Personnel ***Cabinet*** with the approval of the Governor as provided in subsection (1) of this section.

(4) Nothing in this section shall preclude the allowance of maintenance to officers and employees of the state.

Section 72. KRS 64.655 is amended to read as follows:

(1) As used in this section, unless the context clearly requires otherwise:

"Physician" means a person authorized by law to practice medicine in this state.

(2) Notwithstanding the provisions of KRS 64.640, the[~~ Department of~~] Personnel ***Cabinet*** may, upon the recommendation of the hiring authority and with the approval of the Governor, establish rates of compensation and maintenance within the constitutional limit for each position requiring the services of a qualified physician in any department, agency, or other unit of state government. Such rates shall be based upon studies of the duties and responsibilities of the positions and upon a comparison with rates being paid for similar or comparable services elsewhere.

Section 73. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by KRS 78.540(2). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).

(a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(b) For noncertified employees of school boards, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of days worked, the rate of pay, and the hours in a work day for each employee.

1. If the employee works fewer than the number of contracted days, the employee shall receive service credit determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.
2. If the employee works fewer than the number of contracted days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.
3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state~~[Department of]~~ Personnel ***Cabinet*** for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

Section 74. KRS 117.015 is amended to read as follows:

(1) There shall be a State Board of Elections which shall administer the election laws of the state and supervise registration and purgation of voters within the state. The board may adopt administrative regulations necessary to properly carry out its duties.

(2) The board shall consist of the Secretary of State and six (6) members to be appointed by the Governor as provided in this subsection. The Secretary of State shall serve as the chairman of the state board and the chief election official for the Commonwealth. The members shall serve for a term of four (4) years or until their successors are appointed. Members shall be at least twenty-five (25) years of age and qualified voters of this state. No appointed member shall be a candidate for public office, have been a candidate for public office for two (2) years prior to his appointment, or have been convicted of any election law offense. Two (2) members shall be appointed by the Governor from a separate list of at least five (5) names submitted by the state central executive committee of each of the two (2) political parties that polled the largest vote in the last preceding election for state officials. The list shall be submitted to the Governor by February 15 of 1992, and the appointments of the Governor shall be made by April 1 of the same year. Two (2) separate lists shall be submitted to the Governor by August 15 of 1990 and every four (4) years thereafter, and two (2) appointments shall be made from these lists by September 15 of each year in which the lists are received. Vacancies shall be filled in the same manner as provided for original appointments, and the person appointed to fill the vacancy shall be of the same political party as his predecessor.

(3) The board shall meet as often as necessary to carry out its duties and shall keep a record of its acts, orders, findings, and proceedings. A majority of the board shall constitute a quorum. The Secretary of State shall preside at the meetings and may vote.

(4) The members of the board shall be paid a reasonable sum to be fixed by the ***secretary of the Personnel Cabinet***~~[commissioner of personnel]~~, with the approval of the secretary of the Finance and Administration Cabinet, and in addition, their expenses in attending board meetings. The compensation shall be paid out of the State Treasury upon requisition signed by the chairman of the board and approved by the secretary of the Finance and Administration Cabinet.

Section 75. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the chairman, the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities;

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt; and

(j) Conduct random audits of receipts and expenditures of committees which have filed registration papers with the registry pursuant to KRS 121.170.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel, and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to carry out the purposes of this chapter. All requests for personnel appointments shall be forwarded by the registry directly to the ***secretary***[~~commissioner~~] of the[~~ Department of~~] Personnel ***Cabinet*** and shall be subject to his review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter and KRS Chapter 121A. The registry shall not require the listing of a person's Social Security number on any form developed by the registry. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, and committees are required to keep any records pursuant to the provisions of this chapter and KRS Chapter 121A;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, committees, contributing organizations, parties, and exploratory committees as defined in KRS 121A.010(9)(e) containing the total receipts and expenditures; and

1. For each contribution made by a permanent committee of any amount to a candidate, slate of candidates, or exploratory committee, the date, name, and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, or to an exploratory committee, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2., the date, name, address, occupation, and employer of each other contributor or, if the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter and KRS Chapter 121A; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, charter county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, charter county government, or district office;

(k) Conduct audits of receipts and expenditures of all candidates or slates of candidates running for statewide office;

(l) Require that candidates and slates of candidates shall maintain their records for a period of six (6) years from the date of the regular election in their respective political races;

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion;

(n) Forward to the Attorney General or the appropriate Commonwealth's or county attorney any violations of this chapter and KRS Chapter 121A which may become the subject of civil or criminal prosecution; and

(o) Direct and administer the provisions of KRS Chapter 121A.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he considers to be an abridgement of his legal rights.

Section 76. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on (1) the area, (2) the population, and (3) the assessed value of property in the county in accordance with the provisions of the following scale, with one (1) point per each ten (10) square miles or fraction thereof of the area of the county; one (1) point per one thousand (1,000) population of the county; one (1) point per million dollars ($1,000,000) of assessment on the first one hundred million ($100,000,000) and one-half (1/2) point per million dollars ($1,000,000) of assessment over one hundred million ($100,000,000):

Number of Points At Least	But Less Than	Grade Classification
5,000	—	15
1,000	5,000	14
350	1,000	13
300	350	12
225	300	11
150	225	10
125	150	9
100	125	8
---	100	7

Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The grade classification system provided in subsection (1) of this section shall in all respects be equivalent to the grade classification for state employees as established by the~~[Department of]~~ Personnel ***Cabinet*** and subject to the provisions of subsection (4) of this section and be determined on the basis of the total area of the county as determined from information provided by the Kentucky agricultural statistics or other reliable data, the United States Bureau of the Census and the assessment of property subject to state tax as certified by the Revenue Cabinet, including the amount of assessment on which taxes are deferred under the provisions of the Agricultural and Horticultural Land Act, except that the amount of assessment of livestock and farm machinery shall be excluded in determining the grade classification.

(3) The provisions of this section shall be computed on the 1978 assessment and on each annual assessment thereafter.

(4) Each property valuation administrator shall upon taking office for the first time be placed in the first step in grade and

shall annually, effective January 1 after serving no less than twelve (12) months, be advanced one (1) step in grade; except that any person appointed or elected to fill a vacancy in the office of property valuation administrator shall be eligible for advancement one (1) step in grade effective January 1 following completion of at least six (6) months' service. The Revenue Cabinet is authorized to make grade classification changes corresponding to any approved for cabinet employees in comparable positions so long as such changes do not violate the integrity of the classification system and, except further, subject to availability of funds, that the cabinet may extend cost-of-living increases approved for cabinet employees to the property valuation administrators by advancement in grade.

(5) Deputy property valuation administrators and other authorized personnel likewise may be advanced one (1) step in grade upon completion of twelve (12) months' continuous service and given such other benefits relating to reclassification of position or cost-of-living adjustments as are provided in subsection (4) of this section for property valuation administrators.

(6) Beginning with the 1990-1992 biennium, the Revenue Cabinet shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employee positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Beginning with the 1996-1998 biennium, assessment work units shall be based on parcel count per employee. Until that time the property valuation administrator's office shall be allowed by the state as compensation for deputies, other authorized personnel, and for other authorized expenditures, one and one-quarter cents ($0.0125) on each one hundred dollars ($100) of the property assessed, including motor vehicles and the amount of assessment on which taxes are deferred under the agricultural and horticultural land act but exclusive of livestock and farm machinery, on the first two hundred fifty million dollars ($250,000,000) and one cent ($0.01) on each one hundred dollars ($100) of the property assessed over two hundred fifty million dollars ($250,000,000); but the total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the Revenue Cabinet. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for two (2) full-time deputies.

(7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit by June 1 of each year for the following fiscal year to the Revenue Cabinet a budget request for his office which shall be based upon the number of employee positions allocated to his office under subsection (6) of this section and upon the county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. The Revenue Cabinet shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.

(8) Each property valuation administrator may appoint any persons approved by the Revenue Cabinet to assist him in the discharge of his duties. Each deputy shall be more than twenty-one (21) years of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the Revenue Cabinet and shall be subject to the approval of the Revenue Cabinet. The~~[Department of]~~ Personnel ***Cabinet*** shall provide advice and technical assistance to the Revenue Cabinet in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employees. Any deputy property valuation administrator employed or promoted to a higher position may be examined by the Revenue Cabinet in accordance with standards of the~~[Department of]~~ Personnel ***Cabinet***, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the Revenue Cabinet prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(9) Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280, an amount determined as follows:

Assessment Subject to County Tax of:		
At Least	But Less Than	Amount
----	$100,000,000	$0.005 for each $100 of the first $50,000,000 and $0.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$0.004 for each $100 of the first $100,000,000

		and $0.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$0.004 for each $100 of the first $150,000,000 and $0.003 for each $100 over $150,000,000.
300,000,000	----	$0.004 for each $100.

(10) The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection (9) of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to County Tax of:		
At Least	But Less Than	Limit
----	$ 700,000,000	$ 25,000
$ 700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	--	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(11) Annually, after appropriation by the county of funds required of it by subsection (9) of this section, and no later than August 1, the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the State Treasury by September 1, or paid to the property valuation administrator and be submitted to the State Treasury by September 1. These funds shall be expended by the Revenue Cabinet only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the State Treasury in accordance with this provision but unexpended by the close of the fiscal year for which they were appropriated shall be returned to the county from which they were received.

(12) After submission to the State Treasury or to the property valuation administrator of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator, except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.

(13) The provisions of this section shall apply to urban-county governments. In an urban-county government, all the rights and obligations conferred on fiscal courts by the provisions of this section shall be exercised by the urban-county government.

(14) When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government with an assessment subject to countywide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government with an assessment subject to countywide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000), and two hundred thousand dollars ($200,000) for an urban-county government with an assessment subject to countywide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection, the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(15) Notwithstanding the provisions of subsection (1) of this section, any property valuation administrator whose county classification would be reduced from that existing as of June 17, 1978, shall not have his compensation reduced but shall

continue to be compensated at his then current salary until such time as an increase in points earned by his county or a cabinet adjustment, under subsection (4) of this section, qualify him for an increase in compensation.

(16) The county classification system provided in subsections (1) and (2) of this section shall in no way affect reclassification approved prior to this enactment nor shall they be construed to affect any future reclassifications provided under subsection (4) of this section.

(17) Notwithstanding the provisions of subsection (1) of this section, the points awarded for the assessed value of property in the county for the calculation of the compensation of the property valuation administrator for 1996 and subsequent years shall be equal to the number of points awarded for the assessed value of property for 1995, or the number of points required by the provisions of subsection (1) of this section, whichever is greater.

(18) Notwithstanding the provisions of subsection (9) of this section, the amount appropriated and paid by each county fiscal court to the office of the property valuation administrator for 1996 and subsequent years shall be equal to the amount paid to the office of the property valuation administrator for 1995, or the amount required by the provisions of subsections (9) and (10) of this section, whichever is greater.

Section 77. KRS 148.815 is amended to read as follows:

(1) The State Parks Commission is hereby created in order to provide oversight and advice on the parks capital maintenance and renovation fund, capital construction, parks mission, and management. For administrative purposes, this commission is attached to the Department of Parks, which shall provide necessary support staff and services.

(2) The State Parks Commission shall consist of the following members: the commissioner of the Department of Parks; the deputy commissioner of support services; the commissioner of the Department of Fish and Wildlife Resources; the secretary of the Tourism Cabinet; the director of the Kentucky Nature Preserves Commission; the executive director of the Kentucky Heritage Council; the ***secretary***[~~commissioner~~] of the[~~ Department of~~] Personnel ***Cabinet***; and six (6) other members appointed by the Governor, including a resort park manager, and five (5) citizen members including a certified public accountant, a registered architect, an individual who is experienced in tourism promotion, an individual who is experienced in hotel or motel operations, and an individual who is experienced in restaurant operations. The citizen members and resort park manager shall serve four (4) year terms, unless sooner removed for cause; all other members shall serve during their terms of office. The commissioner of the Department of Parks shall act as chairman of the commission. Each citizen member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

Section 78. KRS 151B.035 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult Education and Literacy and the Department for Technical Education central offices, state-operated vocational facilities, and regional staffs. All other staff shall remain under the authority of the Kentucky[~~ Department of~~] Personnel ***Cabinet*** and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.

(2) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult Education and Literacy and the Department for Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(3) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(4) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A and shall have the force and effect of law, when approved by the board and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult Education and Literacy and the Department for Technical Education.

(5) The commissioner for Adult Education and Literacy and the commissioner for Technical Education shall be the appointing authorities with respect to all personnel actions for their respective departments. Each commissioner may authorize a designee to act on behalf of his agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(6) The board shall promulgate other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings, consistent with KRS Chapter 13B;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Department for Adult Education and Literacy and the Department for Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.

(7) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.

(8) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.

(9) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(10) The board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.

(11) The board shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by this chapter.

(12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under this chapter shall be at least equal to that funded and provided for other elementary and secondary teachers.

(13) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

Section 79. KRS 156.026 is amended to read as follows:

(1) For purposes of this section, full-time service in a local school for not less than one hundred forty (140) days during the school year entitles an employee who transfers to the Department of Education to a full year of experience credit on the[~~ Department of~~] Personnel ***Cabinet*** pay schedule and a full year for the purpose of accumulation of annual leave and sick leave in the Department of Education.

(2) An employee of a local school district who transfers to become an employee of the Department of Education after June 30, 1983, shall be allowed to transfer accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3). The employee shall be allowed credit for each year of experience in the local school system for the purposes of determining salary in accordance with the current[~~ Department of~~] Personnel ***Cabinet*** pay schedule, and the rate of accumulation of annual and sick leave in the Department of Education.

(3) For purposes of determining eligibility for additional leave or other benefits based on longevity of service, an employee transferring from a school district to the Department of Education after June 30, 1983, shall be given credit for each year of service in the school district, as determined under subsection (1) of this section.

Section 80. KRS 163.032 is amended to read as follows:

(1) The Kentucky Department of Education, with assistance from the Kentucky[~~ Department of~~] Personnel ***Cabinet***, shall adopt a salary schedule for teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind. The salary schedule shall be the same as salary schedules in effect in local school districts in counties containing a city of the first class and shall conform to the requirements for a single salary schedule as defined in KRS 157.320.

(2) Certified teachers in the Kentucky School for the Deaf and the Kentucky School for the Blind shall have the same statutory employment status and benefits as certified teachers in the public schools.

(3) The Kentucky Department of Education, with assistance from the Kentucky[~~ Department of~~] Personnel ***Cabinet***, shall adopt a salary schedule for administrators at the Kentucky School for the Deaf and the Kentucky School for the Blind which will provide for equitable salaries between teachers and administrators. The salary schedule, which shall be computed prior to July 1 of each year, shall be based on two hundred sixty (260) days per year.

Section 81. KRS 164.357 is amended to read as follows:

(1) There is established as a separate administrative body of state government the Governmental Services Center at Kentucky State University which shall be attached to the Finance and Administration Cabinet for administrative purposes. The center shall be governed by the Governmental Services Center Authority.

(2) The authority shall consist of the president of Kentucky State University, who shall be chairman, the secretary of the Finance and Administration Cabinet, the ***secretary***[~~commissioner~~] of the[~~ Department of~~] Personnel ***Cabinet***, two (2) members appointed by the Governor, each of whom shall serve as ex officio voting members of the authority, and two (2) other voting members to be appointed by the chairman of the authority. Appointed members shall be citizens and residents of the Commonwealth of Kentucky. The initial term of one (1) of the members appointed by the chairman shall

be for two (2) years, and the initial term of the other appointed member shall be for a term of four (4) years; thereafter, all appointments shall be for terms of four (4) years, but appointed members shall be removable at will by the chairman of the authority.

(3) The Governmental Services Center at Kentucky State University, under direction of the authority, shall be responsible for the development, coordination, content, approval and implementation of all training, employee development, and related programs conducted for and on behalf of all program cabinets, departments, administrative bodies and program managers of the state government. The center shall conduct, or cause to be conducted, ongoing management training programs for all program managers and supervisors within the executive branch of state government. The organizational units whose supervisors and managers received training at the center shall share the cost of the training on a pro rata basis. The center shall encourage the enrollment of state employees in academic courses and programs at Kentucky State University. If desired academic courses are not available at the university, and cannot feasibly be developed by the university, other universities and community colleges within the Commonwealth shall be utilized. The authority shall determine the appropriateness of all such programs.

(4) The authority may employ an executive director and other employees necessary to perform the functions of the center in accordance with the provisions of KRS Chapter 18A. The executive director or any staff member of the center may hold concurrently with their employment by the center, and subject to the provisions of KRS 164.360 and 164.365, faculty appointments of appropriate rank at Kentucky State University.

(5) Members of the authority who are not either state or university employees shall be reimbursed for their actual expenses in attending meetings for the authority.

Section 82. KRS 171.311 is amended to read as follows:

The Kentucky Historical Society created by Acts 1880, ch. 244, shall have all the powers and liabilities of a corporation and there is hereby granted to the society the following charter:

I

The Kentucky Historical Society shall collect, maintain and preserve authentic records, information, facts and relics connected with the history of the Commonwealth and the genealogy of her peoples; and promote a wider appreciation of the American heritage, with particular emphasis on the advancement and dissemination of knowledge of the history of Kentucky. The society may receive and hold by donation or devise, real or personal property to any extent and may, by gift, loan, purchase or otherwise hold books, papers, documents, historical memorials, and any other articles suited to promote the objects of the society in the Old State Capitol Building but all such property shall be held in trust for the Commonwealth of Kentucky according to the terms of acceptance.

II

All American citizens, partnerships, corporations or associations who shall evidence their dedication to the promotion of the objects and purposes of the society may become active members thereof upon their approval under regulations prescribed by the executive committee, and the payment of annual dues in a sum determined by the executive committee. Any person possessing the qualifications for membership may become a life member on the payment of a sum determined by the executive committee. The executive committee may determine classes of memberships and establish respective rates of dues. Every member in good standing, including the authorized representative of an institutional member, shall have the right to vote in person or by proxy, hold office, and otherwise take part in the proceedings of the society. Membership may be terminated by resignation or nonpayment of dues.

III

The officers of the society shall be a chancellor, who shall be the Governor of the Commonwealth of Kentucky, a president, first, second and third vice presidents, who shall be ex officio members of the executive committee. All officers, except the chancellor, shall be elected for a term of one (1) year at the annual meeting of the society in a manner provided by law, and the president shall be ineligible to succeed himself if he has been elected for two (2) successive terms.

IV

There is hereby created an executive committee which shall consist of sixteen (16) members, the officers of the society and one (1) person designated annually by the State Archives and Records Commission. The sixteen (16) members of the executive committee shall be divided into four (4) equal classes, so arranged that the terms of one (1) class shall expire at each annual meeting of the society. The class whose term expires shall be ineligible to succeed itself.

V

The executive committee shall execute all the powers and duties conferred on the society, except those expressly delegated to the officers. It shall adopt bylaws at any regular or special meeting. It shall supervise and direct the financial concerns of the society, approve an annual budget and provide for and fix the salaries of employees, subject to the approval of the[~~ Department of~~] Personnel ***Cabinet***. It shall provide for reimbursement of travel expenses of employees and may provide for reimbursement of expenses of officers and members of the executive committee incurred in performing specific duties assigned to them. It shall appoint a director, who shall be the management officer of the society under the direction of the president and policies established by the executive committee, and an assistant director, who shall assume the duties of the director in his absence and perform such other duties as may be assigned to him by the director. It shall establish and prescribe the duties of such other positions as are necessary to operate the society, and all persons engaged to fill such positions shall be employed by the director, subject to the approval of the executive committee, which approval shall constitute exemption from KRS 18A.005 to 18A.200, and their work shall be under the director's supervision.

The committee shall provide for the publication or preservation of historical documents and manuscripts; publish an edition to be known as the "Register"; provide by contract, subject to the approval of the Finance and Administration Cabinet, for all the printing, publication and distribution of reports, books and other publications calculated to promote and advance the historical interest of Kentucky and augment the society's various collections at all times. It shall supervise and direct the ordinary affairs of the society; appoint a nominating committee; and determine other necessary committees of which the president and the director of the society shall be ex officio members. The committee shall cooperate with, provide assistance to and coordinate its functions with those of the state Archives and Records Commission. It may designate honorary members of the society and it shall have the power to fill any vacancies until the next annual meeting, including those occurring within its own membership.

VI

The executive committee shall hold regular meetings in January, April, July and October. Matters to be determined and discussed at such meetings shall be furnished the director at least ten (10) days prior to such meetings in order that he may prepare and distribute an agenda to each member of the committee at least three (3) days before the meeting. Special meetings shall be held at the request of the president or any three (3) members of the committee, in which case the director shall give written notice together with the agenda of such meeting at least ten (10) days in advance. In an emergency, nine (9) members of the committee may waive the provision of notice.

VII

The regular annual meeting of the society shall be held in the Old State Capitol Building on the first Friday after the first Monday in November. The meeting shall be open to all members. Special meetings may be called in Frankfort or elsewhere by the president or a majority of the executive committee or by the director upon the written request of twenty (20) members of the society. Members shall have fifteen (15) days written notice of the time, place and object of the meeting.

VIII

Twenty-five (25) members shall constitute a quorum for the transaction of all business at any meeting of the society, and one-third (1/3) of the membership of the executive committee shall constitute a quorum at their respective meetings.

IX

The Chancellor of the Society, at his discretion, may preside at any meeting of the society or the executive committee, or he may participate otherwise in any meetings.

X

The president of the society shall be the chief executive officer of the society and shall preside over meetings of the society or the executive committee in the absence of the chancellor or at his request. He shall recommend the appointment of all necessary or desirable committees and he shall name persons to comprise such committees, except the nominating committee.

XI

The vice presidents of the society shall preside in the absence of their successive superiors in office at all meetings of the society and the executive committee. They shall attend all regular and special meetings of the society and the executive committee and endeavor to familiarize themselves with the conduct and operations of the affairs of the society. They shall aid and assist the president in the performance of his duties, counsel and advise the executive committee and endeavor at all times to advance and promote the public interest in the history of Kentucky and her people.

XII

Nominations to membership on the executive committee and to the offices of president, first vice president, second vice president and third vice president shall be made by a nominating committee or by any member present at the regular annual meeting. The nominating committee shall consist of five (5) members, shall be appointed at the first regular meeting of the executive committee after the annual meeting of the society and shall consider candidates to fill vacancies in the executive committee and offices which will occur at the subsequent annual meeting. The nominating committee shall meet in the office of the society forty-five (45) days prior to the annual meeting and nominate candidates to fill vacancies on the executive committee and at least one (1) candidate for the office of president, first vice president, second vice president, and third vice president, and file same with the president. Upon the call for the election of officers the president shall promptly report the nomination by the nominating committee together with all other nominations. When more than the required number of candidates have been nominated for membership on the executive committee or more than one (1) candidate for the offices to be filled, the president shall call for an election by the vote of those present, together with the number of votes cast by proxy, and a plurality of all votes cast shall be sufficient to elect. Where no vote count is required the president shall cast one (1) vote for each candidate and he or she shall be declared elected.

XIII

This charter may be amended by a two-thirds (2/3) vote of the members present and voting at any regular meeting or at any special meeting of the society called for the purpose, provided that written notice containing the substance of the proposed amendments shall have been mailed to members not less than thirty (30) days in advance of such meeting and the same approved as an amendment by the first General Assembly, meeting after the action of the society.

Section 83. KRS 168.080 is amended to read as follows:

Subject only to availability of funds from any source, the authority may employ and prescribe the qualifications and duties of such persons as it may deem necessary to the proper performance of its purposes and functions, including an executive director to serve as the principal executive of the authority, and a chief engineer to supervise its engineering staff. Compensation shall be such as may be fixed in accordance with the standards established by the State ***secretary***[~~Commissioner~~] of ***the*** Personnel ***Cabinet***, except that the compensation for those officers and employees exempt from classified services as provided in KRS 18A.115 shall be determined by the authority not to exceed the maximum established by KRS 64.640(2).

Section 84. KRS 175.430 is amended to read as follows:

(1) The Governor, the Lieutenant Governor, the secretary of finance and administration, the State Highway Engineer, the secretary of economic development, the secretary of transportation, and the Attorney General, and their respective successors in office, shall be a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth by the name of "The Turnpike Authority of Kentucky," with perpetual succession and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their services in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) Four (4) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened. Each member may designate in writing a proxy for the transaction of business. Within ninety (90) days from March 25, 1960, the authority shall convene and organize. The Governor shall, by virtue of his office, be the chairman of the authority and the Lieutenant Governor shall in like manner be the vice chairman. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority with approval of the ***secretary of the Personnel Cabinet***[~~commissioner of personnel~~] to be paid from the budgeted funds of the cabinet. The Treasurer shall give bond to the authority and the Commonwealth conditioned upon his faithful accounting for all funds coming into his custody from time to time, the same to be in such amount as the authority may prescribe, with corporate surety given by a surety company qualified to do business in the Commonwealth, premium therefor to be paid by the authority. The authority shall establish and maintain an office in premises which shall be provided for that purpose by the Finance and Administration Cabinet without cost to the authority; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings, which shall constitute public records open to inspection at reasonable times.

Section 85. KRS 195.105 is amended to read as follows:

(1) The secretary for human resources in coordination with the[~~ Department of~~] Personnel ***Cabinet*** is authorized to establish formal training programs within the Cabinet for Human Resources or within any of the departments, divisions, or sections of the cabinet for the training of necessary personnel for the administration of the programs of the cabinet. When courses of study, applicable to the program processes of the cabinet, are not available through instruction within the cabinet, arrangements may be made for the training of employees in any public or private school or institution having available facilities for that purpose and such training shall be deemed to be a part of the cabinet's training program. Training of employees in public or private schools or institutions for this purpose shall be deemed a part of research assignments to be completed during the period of study, such assignments to relate directly to the work assignment of the employee. After consulting with the[~~ Department of~~] Personnel ***Cabinet***, position classifications in the research series shall be established for employees on such work study assignments, and funds of the cabinet may be used to pay salaries commensurate with the appropriate classification while the employee is receiving such training.

(2) Any employee who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of such training, the state will hold a claim against him for the amount of salary paid during the training period, and he will repay to the cabinet the sum paid to him by the cabinet during the period of his training.

Section 86. KRS 199.900 is amended to read as follows:

(1) The secretary for human resources in coordination with the[~~ Department of~~] Personnel ***Cabinet*** is authorized to establish

formal training programs within the Cabinet for Human Resources or within any of the divisions or sections of the cabinet for the training of necessary personnel for the administration of the programs of the cabinet. When courses of study, applicable to the program processes of the cabinet, are not available through cabinet instruction, arrangements may be made for the training of employees in any public or private school or institution having available facilities for that purpose and such training shall be deemed to be a part of the cabinet training program. Training of employees in public or private schools or institutions for this purpose shall be deemed a part of research assignments to be completed during the period of study, such assignments to relate directly to the work assignment of the employee. After consulting with the[~~Department of~~] Personnel ***Cabinet***, position classifications in the research series shall be established for employees on such work study assignments, and funds of the cabinet may be used to pay salaries commensurate with the appropriate classification while the employee is receiving such training.

(2) Any employee who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of such training, the state will hold a claim against him for the amount of salary paid during the training period, and he will repay to the cabinet the sum paid to him by the cabinet during the period of his training.

Section 87. KRS 238.510 is amended to read as follows:

(1) The Division of Charitable Gaming is created as a division within the Justice Cabinet. The division shall license and regulate the conduct of charitable gaming and license and regulate charitable organizations that desire to engage in charitable gaming, charitable gaming facilities, manufacturers, and distributors in the Commonwealth of Kentucky in accordance with the provisions of this chapter.

(2) The secretary of justice shall employ a division director, an assistant director, and other staff as may be necessary to administer and enforce the provisions of this chapter.

(3) All division staff shall be classified and employed in accordance with applicable personnel requirements of the[~~Department of~~] Personnel ***Cabinet***. The division director shall be a nonmerit employee and all other staff shall be merit employees with all rights and privileges afforded under KRS Chapter 18A.

(4) No employee of the division during his or her term of employment shall be an officer in a charitable organization that is licensed to conduct charitable gaming or be involved in the conduct of charitable gaming as a member of a licensed charitable organization. No employee of the division during his or her term of employment shall be licensed as a manufacturer, distributor, or charitable gaming facility, or have a financial interest in any business that is licensed as a manufacturer, distributor, or charitable gaming facility.

Section 88. KRS 293.080 is amended to read as follows:

The commissioners of the authority shall be compensated upon a per diem basis to be fixed by the ***secretary of the Personnel Cabinet***[~~commissioner of personnel~~] upon the basis of a reasonable classification established under state personnel statutes, and the authority shall reimburse them for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding any other statutory provision, an officer or employee of the state shall not be deemed to forfeit his office or employment or any benefits thereof by reason of his acceptance of the office of commissioner of the authority.

Section 89. KRS 315.160 is amended to read as follows:

(1) The board shall elect annually from its membership a president and such other officers as it deems necessary. These officers shall serve for a term of one (1) year and perform the duties prescribed by the board. No officer shall serve more than two (2) consecutive full terms in each office to which he is elected.

(2) The board shall employ a pharmacist to serve as a full time employee of the board in the position of executive director. The executive director shall be responsible for the performance of the administrative functions of the board and such other duties as the board may direct. The board may employ, upon recommendation of the executive director, such additional assistance as necessary for the proper conduct of board business and in accordance with the rules and regulations of the Kentucky[~~Department of~~] Personnel ***Cabinet***.

(3) The board shall meet at least four (4) times a year to transact business, at such place as it may determine. The board may also meet at the call of the president or a majority of the board members. Each board member shall be given adequate prior notice of any board meeting.

Section 90. KRS 317.470 is amended to read as follows:

(1) The barber board may employ such personnel as may be reasonably necessary to carry out the provisions of this chapter, whose compensation shall be established by the[~~Department of~~] Personnel ***Cabinet***. The board shall by appropriate order employ an administrator who shall be charged with responsibility of administering the provisions of this chapter, and the policies of the board relating to barbering. The administrator may receive a salary of $12,000 per annum, or such compensation as may be established by classification of the position by the[~~Department of~~] Personnel ***Cabinet***.

(2) The barber board shall prescribe the duties of such personnel employed by it.

(3) The barber board shall publish and distribute copies of its rules and regulations and revisions thereof to all persons

licensed by it and to such other persons, places, or agencies as may be required by law or deemed by it reasonably necessary in the administration of the provisions of this chapter, but such publications shall be clearly stamped, marked, or printed "informational copy."

Section 91. KRS 317A.040 is amended to read as follows:

(1) The cosmetology board may employ inspectors and such other personnel as may be reasonably necessary to carry out the provisions of this chapter, whose compensations shall be established within budgetary limits by the[~~ Department of~~] Personnel ***Cabinet***;

(2) The cosmetology board shall by appropriate order employ an administrator who shall be charged with the responsibility of administering the provisions of this chapter, and the policies and regulations of the board relating to hairdressing and cosmetology;

(3) No person shall be employed as an administrator unless he is a licensed cosmetologist;

(4) The administrator may receive a salary of $7,500 per annum, or such compensation as may be established by classification of the position by the[~~ Department of~~] Personnel ***Cabinet***;

(5) The cosmetology board shall publish and distribute copies of its rules and regulations and revisions thereof to all persons licensed by it and to such other persons, places or agencies as may be required by law or deemed by it reasonably necessary to the administration of the provisions of this chapter, but such publications shall be clearly marked, stamped or printed "Informational Copy."

Section 92. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" include any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a babysitter in employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the ***secretary***[~~commissioner~~] of the[~~ Department of~~] Personnel ***Cabinet*** shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year; or

11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Human Resources under KRS 199.640 to 199.670.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but, if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly-owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 93. KRS 339.230 is amended to read as follows:

A minor who has passed his fourteenth birthday but is under eighteen (18) years of age may be employed, permitted or suffered to work in, about or in connection with any gainful occupation, except:

(1) If he is under sixteen (16) years of age, he may not be employed during regular school hours, unless:

  (a) The school authorities have made arrangements for him to attend school at other than the regular hours, in which event he may be employed subject to regulations of the commissioner of workplace standards during such of the regular school hours as he is not required to be in attendance under the arrangement; or,

  (b) He has graduated from high school.

(2) A minor who has passed his fourteenth birthday but is under eighteen (18) years of age, may not be employed, permitted or suffered to work:

  (a) In any place of employment or at any occupation, that the commissioner of workplace standards shall determine to be hazardous or injurious to the life, health, safety or welfare of such minor;

  (b) More than the number of days per week, nor more than the number of hours per day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the U.S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments, but in no event may he make them less restrictive;

  (c) During the hours of the day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the U.S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he make them less restrictive; and

  (d) In, about or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption or dispensed unless permitted by the rules and regulations of the Alcoholic Beverage Control Board (except he may be employed in places where the sale of alcoholic beverages by the package is merely incidental to the main business actually conducted); or in a pool or billiard room.

(3) The commissioner of workplace standards shall promulgate regulations to properly protect the life, health, safety or welfare of minors. He may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, number of hours, hours of the day, nature of the employment and other pertinent factors. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the U.S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he make them less restrictive, provided, however, these regulations shall have no effect on the definition of "gainful occupation" under KRS 339.210. To advise the commissioner with respect to the regulations, the Governor shall appoint a committee of four (4) persons which shall consist of a representative from the Cabinet for Human Resources, the Department of Education, the Kentucky Commission on Human Rights and the[~~ Department of ~~]Personnel ***Cabinet***. The regulations promulgated in accordance with this section shall be reviewed by such committee whenever deemed necessary by the commissioner of workplace standards.

Section 94. KRS 342.809 is amended to read as follows:

(1) The board shall elect a chair and other officers it deems necessary from its members. The Governor shall make the initial appointments to the board as follows: three (3) members shall be appointed to terms that expire December 31, 1995, and four (4) members shall be appointed to terms that expire December 31, 1997. Subsequent members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.

(2) Senate confirmation of the Governor's appointees is required in accordance with the provisions of KRS 11.160. If a member is not confirmed by the Senate, the Governor, within thirty (30) days of the rejection, shall make another appointment. That member shall serve the remainder of the term in question and shall also be subject to confirmation should the term extend until the next regular session, or a special session which includes this subject on the call, whichever occurs earlier.

(3) Four (4) voting members shall constitute a quorum. The board shall meet at least quarterly.

(4) Each voting member shall be compensated five thousand dollars ($5,000) annually, except the chair, who shall be paid seven thousand five hundred dollars ($7,500). In addition, the voting members of the board shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated by the Cabinet for Finance and Administration for state employees.

(5) The ex officio nonvoting members of the board shall be: the secretary of the Finance and Administration Cabinet, the ***secretary***[~~commissioner~~] of the[~~ Department of~~] Personnel ***Cabinet***, and the commissioner of the Department of Insurance.

(6) A voting board member may be removed for cause by the board. Cause shall include, but not be limited to, incompetence or misconduct defined in policies or bylaws formulated by the board and adopted by the policyholders.

Section 95. KRS 344.160 is amended to read as follows:

(1) The members of the Commission on Human Rights established by KRS 344.150 shall be appointed on a bipartisan basis and shall be broadly representative of employers, proprietors, trade unions, religious groups, human rights groups, and the general public.

(2) Each member is entitled to reimbursement of expenses incurred in the performance of his duties and when serving as a hearing examiner shall be compensated at a per diem rate to be established by the ***secretary of the Personnel Cabinet***[~~commissioner of personnel~~].

(3) Each member shall receive sixty-five dollars ($65) per day for attending meetings of the commission in addition to the reimbursement of expenses authorized in subsection (2) of this section.

Section 96. Executive Order 96-909, issued on July 11, 1996, is confirmed to the extent it is not otherwise confirmed or superseded by this Act.

The Committee on Natural Resources and Environment reported **HB 371,** with Committee Substitute and Committee Amendment attached thereto, and **HB 488,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 371, AN ACT relating to recycling and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that in order for the Commonwealth to carry out the policy of solid waste reduction established in KRS 224.43-010, it is imperative that new opportunities for recycling, particularly in rural areas of the Commonwealth, be developed. The General Assembly finds that containers, especially beverage containers, are the most valuable and recyclable commodity in the waste stream and that the discarding of these containers is an unnecessary addition to the state's litter problem and its already overburdened solid waste disposal system. The General Assembly further finds that it is in the public interest to establish a program for the recycling of containers which:

(1) Reduces the volume of waste and litter;

(2) Increases opportunities for recycling and provides financial incentives for consumers to do so;

(3) Builds upon existing recycling infrastructure;

(4) Provides incentives for industry to use more recyclable containers and assist in market development for recyclable containers; and

(5) Stimulates statewide creation of new jobs and wider employment in the recycling industry.

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 18 of this Act, unless the context requires otherwise:

(1) "Authority" means the Authority for Infrastructure Development;

(2) "Beverage" means milk, fruit juices, carbonated or noncarbonated water, soft drinks, wine, distilled spirits, beer or other malt beverages, or any mixture of the identified liquids which are intended for human consumption;

(3) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(4) "Consumer" means any person who purchases a beverage or other consumer product in a container for use or consumption. It shall also include any owner of a lodging, eating, or drinking establishment that sells beverages or other consumer products in containers for consumption on the premises with respect to those containers sold for consumption on the premises;

(5) "Container" means an individual bottle, can, jar, or other sealed receptacle, with a capacity of up to one (1) gallon, in which a beverage is sold, and which is constructed of metal, glass, plastic, or any combination of these materials. It shall also mean any individual and separate plastic receptacle of one-half (1/2) to one (1) gallon capacity, containing any nonbeverage consumer product which the cabinet designates as a container pursuant to Section 5 of this Act. It shall not mean any refillable container;

(6) "Container type" means the classification of containers by material used in the manufacture of the containers broken out by the following categories:

- ***(a) Aluminum;***
- ***(b) Steel;***
- ***(c) Bi-metal;***

(d) Green glass;
(e) Clear glass;
(f) Brown glass; and
(g) Individual plastic resins;

(7) "Dealer" means any person in this Commonwealth who engages in the sale of beverages or other consumer products in containers to a consumer;

(8) "Distributor" means any person who engages in the sale of containers to a dealer in this Commonwealth including any manufacturer, if the manufacturer engages in these sales;

(9) "Handling fee" means a per container payment made to recycling centers;

(10) "Local government" means any county, urban-county government, waste management district, city, or charter county government;

(11) "Manufacturer" means any person who bottles, cans, or otherwise fills containers for sale to distributors or dealers;

(12) "Processors" means any person, including a scrap dealer, who purchases empty redeemed containers from recycling centers in the Commonwealth for recycling;

(13) "Recycling center" means any system for collecting empty containers for redemption that is included in an area solid waste management plan approved pursuant to KRS 224.43-340;

(14) "Refillable container" means any container that:

(a) Is capable of being refilled multiple times; and

(b) Is distributed by a distributor that operates or has arranged for the operation of a facility and system that processes and refills all returned refillable containers sold by that distributor in the Commonwealth; and

(15) "Sell or offer for sale at retail" includes the selling or offering for sale of consumer products in containers by means of a vending machine.

SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) On and after July 1, 1999, every container sold or offered for sale in the Commonwealth shall have a minimum refund value in the following amounts:

(a) Refund value of five cents ($0.05) for a container with a content of less than twenty (20) ounces; and

(b) Refund value of ten cents ($0.10) for a container with a content equal to or greater than twenty (20) ounces.

(2) For local governments with curbside recycling programs that do not sort containers, the refund value shall be based on the average proportion of refundable containers to nonrefundable containers, determined through periodic sampling.

SECTION 4. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

On and after July 1, 1999, if a dealer sells or offers for sale to a consumer a beverage or other consumer product in a container for consumption or use off the premises on which it is sold or offered for sale, the following shall apply:

(1) The container shall clearly show, by engraving, embossing, molding, stamping, labeling, or other method securely affixed to the container the minimum refund value of the container and the words "Kentucky Redemption Value," "KY Redemption Value," "Kentucky Cash Refund," or "KY Cash Refund";

(2) The container shall not have any other state deposit or minimum refund value identified other than Kentucky's minimum refund value;

(3) The dealer shall charge the consumer a deposit equal to the minimum refund value stated on the container; and

(4) The deposit required in subsection (3) of this section shall not be considered part of the price of the container for sales tax purposes.

SECTION 5. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

On or before January 1, 1999, the cabinet shall, by administrative regulation promulgated in accordance with the provisions of KRS Chapter 13A, identify those plastic containers containing a nonbeverage consumer product which can be recycled safely. The cabinet shall verify that containers listed may be recycled without posing an unacceptable risk to the general public, or to workers at recycling centers or processing facilities. These containers shall have a minimum refund value in accordance with Section 3 of this Act.

SECTION 6. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) On and after July 1, 1999, each county having responsibility for developing its portion of the area solid waste management plan required by KRS 224.43-340 shall establish and operate on its own, or through contract or other agreement with another person, recycling centers where consumers may return empty containers and receive the minimum refund value of the containers. The minimum number of recycling centers required to be established and operated is as follows:

(a) A county with a population up to fifty thousand (50,000) persons shall establish and operate, at a minimum, one (1) recycling center;

(b) A county with a population of more than fifty thousand (50,000) but fewer than one hundred thousand (100,000) persons shall establish and operate, at a minimum, two (2) recycling centers; and

(c) A county with a population of one hundred thousand (100,000) persons or more shall establish and operate, at a minimum, three (3) recycling centers.

(2) If a county fails to comply with the provisions of this section, the Commonwealth shall not endorse projects that generate solid waste under the Kentucky intergovernmental review process for the county.

SECTION 7. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) In addition to counties required to establish recycling centers under Section 6 of this Act, any other local government or person, other than an owner or operator of a retail establishment which sells food or beverages, may establish a recycling center, subject to the approval of the county in which it is located. Approved recycling centers shall be incorporated into the area solid waste management plan required by KRS 224.43-340 and submitted to the cabinet.

(2) The cabinet shall, in accordance with KRS Chapter 13A, promulgate administrative regulations containing the minimum operating and financial assurance requirements for recycling centers. Recycling centers failing to meet requirements set out in these regulations shall not be approved by the cabinet as meeting the intent of Sections 1 to 18 of this Act, and shall be deemed ineligible to receive from processors any funds from the container recycling fund.

SECTION 8. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) No recycling center shall receive reimbursement for the minimum refund values paid to consumers or for handling fees to be established pursuant to Section 14 of this Act, unless the recycling center has been approved in the area solid waste management plan required by KRS 224.43-340.

(2) Except as provided in Section 9, a recycling center shall accept all empty containers brought to the center for redemption, and pay the minimum refund value established in Section 3 of this Act.

(3) No person shall knowingly receive a minimum refund value for empty beverage containers which have already been redeemed, or knowingly return redeemed containers to the marketplace where they could be redeemed again.

(4) No person shall knowingly receive a minimum refund value for empty containers which do not have stated on them the minimum refund value and state identification as provided for in Section 4 of this Act.

SECTION 9. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A recycling center may refuse to accept, and shall not be reimbursed by processors the minimum refund value of, any container to which either of the following applies;

(a) The container does not have stated on it the minimum refund value and state identification as provided for in Section 4 of this Act; and

(b) The container bears an indication that it has already been redeemed and its minimum refund value has already been paid.

(2) A recycling center may refuse to accept any container which is broken, dirty, or contains material foreign to the normal contents of the container.

SECTION 10. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Recycling centers shall also operate either a drop-off or buy-back service for at least one (1) other recyclable material not covered by a minimum refund value. Area solid waste management plans shall not be approved unless designated recycling centers document the capability and willingness to accept at least one (1) other recyclable material. If the authority establishes a multiyear contract for the sale of any recyclable material not covered by the minimum refund value, the cabinet may require recycling centers to take these recyclable materials.

(2) The cabinet may review at any time compliance of any recycling center with administrative regulations promulgated

pursuant to Section 7 of this Act. If, after a hearing, it is determined that a recycling center is not in compliance, the cabinet shall withdraw its approval of the recycling center.

SECTION 11. A NEW SECTION OF SUBCHAPTER 43 KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Distributors shall pay to the Revenue Cabinet the minimum refund value for all containers sold or transferred to a dealer, or sold directly to a consumer, in a manner and within the time periods determined by the Revenue Cabinet.

(2) The Revenue Cabinet may assess a distributor a penalty of fifteen percent (15%) of any amount due from the distributor under this section if payment is one (1) month late, plus an additional penalty of five percent (5%) of the amount due for each additional month payment is late.

(3) All payments collected by the Revenue Cabinet under this section shall be paid into the State Treasury and credited to the container recycling fund established in Section 13 of the Act.

(4) The Revenue Cabinet shall, through promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A and in consultation with the authority, prescribe forms, time schedules, and procedures that distributors shall use and follow to make payments to the Revenue Cabinet pursuant to this section, Section 15, and Section 18, of this Act.

SECTION 12. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The authority shall develop and implement a grant and loan program for recycling centers and local governments to use in carrying out the policy established in KRS 224.43-010. The authority shall promulgate administrative regulations pursuant to KRS Chapter 13A to carry out the provisions of this section. Grant money may be used to reward recycling centers and local governments that apprehend or otherwise prevent persons violating Section 8 of this Act. The grant and loan program shall go into effect after the original appropriation for the container recycling program has been repaid pursuant to subsection (3) of Section 13 of this Act.

SECTION 13. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A trust fund, which shall be known as the "Container Recycling Fund," is hereby created in the State Treasury of the Commonwealth. The fund shall be maintained as a separate and distinct interest-bearing account. All of the following amounts shall be deposited in the fund:

- *(a) All payments collected pursuant to Sections 11 and 15 of this Act;*
- *(b) Any interest earned upon money deposited in the fund; and*
- *(c) Any money collected in the form of penalties levied pursuant to Sections 11 and 18 of this Act.*

(2) Moneys in the fund shall be used by the authority only for the following purposes and in the following order of priority:

- *(a) Payment of administrative and contract costs incurred to implement Sections 1 to 18 of this Act;*
- *(b) Reimbursement to processors for minimum refund values paid to recycling centers for redemptions;*
- *(c) Payment to recycling centers for handling fees; and*
- *(d) Reimbursement to the general fund of the State Treasury for the original appropriation associated with implementing this Act.*

(3) Unexpended money remaining in the fund at the end of the fiscal year and unclaimed container deposits shall revert to the general fund of the State Treasury to repay the original appropriation associated with Sections 1 to 18 of this Act until those costs are repaid in full. After the general fund has been repaid for the original appropriation associated with Sections 1 to 18 of this Act, unexpended money remaining in the fund at the end of the fiscal year and unclaimed container deposits shall revert to a revolving loan fund available to the authority for the development of rural infrastructures.

SECTION 14. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall, by March 1, 1999, franchise or contract with processors to collect redeemed containers from recycling centers. Processors shall be certified by the authority.

(2) On or after July 1, 1999, certified processors shall reimburse approved recycling centers for each minimum refund value payment made under Section 8 of this Act. Processors shall be reimbursed from the container recycling fund. The authority shall pay to recycling centers a handling fee of up to two cents ($0.02) for each container redeemed.

(3) Processors shall not pay a refund, or receive a refund value from the container recycling fund, for any container that does not have the minimum refund value affixed to the container as required under Section 4 of this Act.

Processors shall verify that all containers contain these notations on the container.

(4) The authority may promulgate administrative regulations pursuant to KRS Chapter 13A as it deems necessary to implement provisions in Sections 1 to 18 of this Act.

(5) Processors shall report to the authority, on a form prescribed by the authority, the number of containers redeemed by:

- *(a) Container type and weight;*
- *(b) The name and location where the containers were recycled or disposed; and*
- *(c) Any other information required by the authority to carry out the provision of Sections 1 to 18 of this Act.*

(6) Whenever feasible, all redeemed containers shall be recycled. In order to assure statewide recycling markets, the authority may designate that specified containers only be sold through the authority. Upon designation, processors shall sell redeemed containers through a contract or other arrangement established by the authority. If the authority does not have a contract or other agreement to recycle certain containers, and the processor is unable to find a market, the processor shall notify the authority that no market exists. The authority shall make a determination that no market or cost-effective alternative exists prior to authorizing the disposal of redeemed containers in a landfill approved under KRS Chapter 224.

(7) The authority may revoke, suspend, or refuse to renew a contract or franchise to any processor who violates any provision of Sections 1 to 18 of this Act.

SECTION 15. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Beginning July 1, 2000, and annually thereafter, the authority shall identify any container type which has low recycling value. The authority shall make this determination upon a finding that over ten percent (10%) of redeemed containers of a container type are being landfilled.

(2) Upon a determination by the authority that a container type has low recycling value, the Revenue Cabinet shall impose a one cent ($0.01) fee per container for all containers of the container type sold in the Commonwealth. The fee shall be paid by distributors of the container type to the Revenue Cabinet at the same time and in the same manner as the minimum refund value is paid pursuant to Section 11 of this Act. The fee shall remain in effect until it is determined by the authority that markets for the container type have improved and the container type is no longer considered as having low recycling value.

SECTION 16. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Auditor of Public Accounts shall conduct a selective audit of recycling centers, processors, and distributors to determine whether payments are being properly paid into and out of the container recycling fund.

(2) The authority may conduct, at any time, its own investigation of claims made by processors for reimbursement from the container recycling fund, and claims made by recycling centers to processors.

(3) The Revenue Cabinet may conduct, at any time, its own investigation of payments made to the Revenue Cabinet by distributors.

(4) The cabinet shall conduct periodic inspections of recycling centers to assure that they are operated in accordance with the area solid waste management plan and to investigate fraudulent claims for redemption.

SECTION 17. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Authority for Infrastructure Development is hereby created to assist local governments in implementing the Kentucky Recycling and Marketing Program and other infrastructure developments. The authority shall be composed of three (3) members as follows:

- *(a) The secretary of the Economic Development Cabinet, who shall serve as chairman;*
- *(b) The secretary of the Finance and Administration Cabinet; and*
- *(c) The commissioner of the Department of Local Government.*

(2) These three (3) members and their successors in office shall constitute the Authority for Infrastructure Development, a public corporation, with perpetual succession and with power in that name to contract and be contracted with, to convey property, to borrow money, to sue and be sued, and to exercise, in addition to the powers and functions conferred by this section, all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(3) The members of the authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and

function as members.

(4) All three (3) members of the authority shall be present for the transaction of business. The Economic Development Cabinet shall provide staff services to the authority. The authority shall establish and maintain complete records of the authority's action and proceedings, which shall be public records open to inspection.

(5) The Kentucky Recycling and Marketing Advisory Board, referred to in this section as the "advisory board" is created to advise the authority on matters related to recycling and marketing. The board shall consist of thirteen members appointed by the authority including representatives of the cabinet; municipal and county governments; citizens representing environmental interests; and industry representatives.

(6) The members of the advisory board shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their advisory duties to the authority.

(7) On or before July 1, 1998, the authority shall appoint thirteen (13) members of the advisory board as follows: five (5) shall serve terms ending July 1, 2002; four (4) shall serve terms ending July 1, 2001, and four (4) shall serve terms ending July 1, 2000. As the terms of each group of members expire, the authority shall appoint successors for terms of four (4) years and until their successors are appointed.

(8) To implement the Kentucky Recycling and Marketing Program, the authority, with staff assistance from the Economic Development Cabinet, shall act as a state broker for local governments and recycling centers seeking to sell recyclable materials. The authority shall:

- *(a) Conduct a market analysis to assess the salability of redeemed containers and other recyclables;*
- *(b) Contract with processors, container manufacturers, and other secondary material manufacturers for the sale of recyclable materials on behalf of local governments, or for the purpose of providing markets for redeemed containers;*
- *(c) Contract directly with processors, or franchise the state to assure that processors are available to collect redeemed containers and recyclables from local governments and recycling centers;*
- *(d) Keep accurate books, records, and accounts of all entities making payments to, or receiving payments from, the container recycling fund to determine:*
  - *1. Whether redemption payments are being paid on all containers sold in the Commonwealth; and*
  - *2. Whether refund values and handling fees are being paid properly.*
- *(e) Arrange details of contracts including price collection schedules, reimbursements, and quality assurance provisions;*
- *(f) Conduct workshops and seminars throughout the state to train recycling center and solid waste facility operators on how to prepare and process materials that will be marketed through the authority;*
- *(g) Issue routine market bulletins containing pricing information and other program details to all local governments, both those participating as well as non participants; and*
- *(h) Handle all paperwork for the brokering service including contracts, invoices, weigh slips, and records of collections and issue revenue checks to participants.*

(9) Participants in the Kentucky Recycling and Marketing Program shall be assessed a brokerage fee of fifteen percent (15%) of the sale revenue or two dollars ($2) per ton of recyclables sold, whichever is greater.

(10) In addition to any brokerage fees received, the authority may receive and accept franchise fees, grants, contributions of money, property, labor, or other things at value from any governmental agency, nonprofit organization, or private enterprise to be used to carry out the provisions of Sections 1 to 18 of this Act.

(11) All state agencies shall, where practicable, enter into a memorandum of agreement with the authority to make storage space available on state properties. The authority shall use the space for regional storage and pickup of containers and other recyclable materials collected by recycling centers.

(12) The authority shall annually issue financial and informational reports to the General Assembly which shall contain full descriptions of tonnage volumes handled, revenues generated, contracts entered into, market summaries and reviews, and other information under which a full review of the brokerage program is possible. The report shall be due on January 1 of each year. The authority shall include in its January 1, 1999, report the following:

- *(a) A description and analysis of the Commonwealth's existing recycling industry, the types, and estimated amounts of recovered material being separated or reprocessed;*
- *(b) An analysis of the projected long-term capacity of existing markets to absorb materials generated by materials recovery or recycling programs;*
- *(c) An analysis of potential markets in the Commonwealth, in other states, or in foreign countries for recovered*

material or products manufactured using recovered material from the Commonwealth;

(d) An analysis of institutional, economic, and technical barriers to the use of recovered material or products manufactured using recovered materials;

(e) Recommendations for actions which may be taken to increase demand for recovered materials or products;

(f) Recommendations for actions which may be taken to increase the incentives for private individuals and for business and industry to recover materials;

(g) Recommendations on categories of materials which should be recovered in this Commonwealth, given existing and potential markets for these materials;

(h) Recommendations for a public education program to be implemented by the cabinet to provide information to the public and to business and industry on the benefits of materials recovery and recycling and on the availability of those materials or products; and

(i) A review of state and local government procurement policies and recommendations for actions which might be taken to encourage waste reduction and recycling.

(13) In subsequent years the authority shall include in its annual report the following:

(a) Any revisions which the authority determines are necessary to its initial report;

(b) An analysis of changes that have occurred with markets for recovered material and products manufactured using recovered material since the last report;

(c) Any other recommendations to facilitate the development of markets for recovered material and products manufactured using recovered material in this Commonwealth;

(d) A report on the status of container recycling opportunities throughout the Commonwealth;

(e) A report on the percentage of containers recycled;

(f) An analysis of the total amount of funds used for program administration, payments made to processors, payments made through grants, and the amount of funds remaining in the container recycling fund;

(g) Recommendations of what additional materials, if any, should be covered by a deposit;

(h) Recommendations on how to enhance the opportunities for all citizens in every region of the Commonwealth to redeem containers conveniently, efficiently, and economically; and

(i) Any other recommendations for modification which would improve the container recycling program.

SECTION 18. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates Section 4, 8, or 14 of this Act shall be subject to a civil penalty of not more than one thousand dollars ($1,000) for an initial offense and not more than five thousand dollars ($5,000) for each subsequent offense.

(2) Any distributor who submits to the Revenue Cabinet less than the dollar amount required by Section 11 or 15 of this Act shall be subject to a civil penalty of not more than five thousand dollars ($5,000) for an initial offense and not more than ten thousand dollars ($10,000) for each subsequent offense.

(3) All moneys collected under this section shall be deposited in the container recycling fund.

Section 19. KRS 224.43-345 is amended to read as follows:

(1) Each area solid waste management plan shall be prepared in accordance with administrative regulations ***promulgated***~~[to be adopted]~~ by the cabinet and shall be required to include the following:

(a) Identification of the area that will be included in the plan;

(b) A demographic study of the planning area of current and projected populations five (5), ten (10) and twenty (20) years in the future. A projection of the amount and source of solid waste generated and requiring disposal at municipal solid waste disposal facilities for each of these time periods shall be provided;

(c) An inventory and description of all existing solid waste management facilities and activities. The description shall include their identity, location, life expectancies, ownership, cost to the users, and level of compliance with state and federal laws. The description is not required to include any solid waste management facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator for the purpose of accepting solid waste from the solid waste generator or waste generated at another facility owned and operated by the generator or wholly-owned subsidiary. After commencement of operation by a solid waste generator of a solid waste disposal facility which is permitted but not included in a solid waste management plan, an amendment to a solid waste management plan shall be required for any solid waste which is to be no longer disposed by the solid waste generator in its own solid waste disposal facility;

(d) An estimate of the area's long-range needs for solid waste management and facilities for five (5), ten (10), and twenty (20) years into the future;

(e) Identification and assessment of current and future solid waste management problems faced by the area. List any deficiencies with existing solid waste management facilities in meeting current and future area needs, and identify opportunities for improvement;

(f) Outline short-term, mid-term, and long-term goals and objectives of the solid waste management area. The goals and objectives shall be consistent with state policies;

(g) Based on the problems, needs, goals, and objectives previously identified, identify alternative approaches to solid waste management and select the optimal alternatives. Solid waste management activities and facilities to be addressed include:

1. Identification of those regulations and ordinances which provide for proper, safe, and sanitary management of solid waste;

2. A description of proposed improvements to existing solid waste collection and transportation systems;

3. Establishment of a siting procedure and development program to assure the orderly location, development, and financing of new or expanded municipal solid waste management facilities. The plan shall demonstrate how all persons in the planning area will within the near future have reasonable opportunity to dispose of their waste in a manner that complies with state and federal laws;

4. Identification of planned programs for the control and cleanup of litter and open dumps. The programs shall include: a schedule for the cleanup of illegal open dump sites which will result in the cleanup of those sites within one (1) year of cabinet approval of the plan; an annual survey of the county to discover new sites which shall then be scheduled for cleanup within one (1) year; and measures to prevent the recurrence of dumping at sites which are cleaned up;

5. An assessment of opportunities to reduce the need for land disposal by banning grass clippings, leaves, and other yard wastes from municipal solid waste disposal facilities and the institution of composting operations for grass clippings, leaves, and other yard wastes;

6. Establishment of a plan to reduce the need for land disposal through waste reduction and recycling, materials recovery, and energy recovery and the provision of opportunities for recycling that may include, but are not limited to, drop-off centers***, recycling centers required pursuant to Section 6 of this Act,*** or door-to-door collection. Where recycling or material recovery is not deemed feasible, ***except as required in Section 6 of this Act,*** specific factual analysis shall be provided to support the conclusion***. The plan shall identify:***

   a. Those recycling centers where empty containers are accepted for redemption. The minimum number of recycling centers is contained in Section 6 of this Act;

   b. The location, operator, materials to be redeemed or recycled, and hours of each center;[~~and~~]

7. A description of any proposed recycling, materials recovery, or energy recovery plan or facility;

(h) A five (5) year schedule and description of activities to be undertaken to implement the proposed plan;

(i) A description of short-term costs of the plan including capital and operational costs on a per ton and per capita basis for each element of the plan, and the identification of the means of financing plan implementation;

(j) Designation of the governing body for implementation of the solid waste management plan or components of the plan. A description of its responsibilities and authority shall be provided;

(k) A description of proposed surveillance and enforcement procedures to assure that solid waste in the planning area is properly managed. Identification of modifications to local laws and regulations necessary to implement the area plan;

(l) Specific provisions to assure that adequate capacity for a ten (10) year period shall be available for municipal solid waste generated in the solid waste management area, and identification of any additional capacity authorized for disposal of out-of-area municipal solid waste;

(m) Contractual agreements for use of waste disposal capacity at any municipal solid waste disposal facility inside or outside the waste management area identified and relied upon in the plan;

(n) Provisions to assure achievement of reductions in municipal solid waste requiring disposal, consistent with the goals of KRS 224.43-010;

(o) Establishment of a public information and participation process including the following components;

1. Formation of an advisory committee comprised of local residents, and business and industry representatives;

2. Preparation of a draft plan for public notice and comment;

3. Convening of a public hearing upon request; and

4. Publication of a response to public comments.

(2) The solid waste management plan shall consist of two (2) parts. The first part shall contain the information described in subsection (1)(a) through (1)(d) and (1)(l) of this section and shall be submitted to the cabinet by October 1, 1991. The second part shall contain the information described in subsection (1)(a) through (1)(o) of this section and shall be submitted to the cabinet by January 1, 1993. The cabinet shall approve or disapprove the first part of the plan within thirty (30) days of receipt, and the second part of the plan within one hundred twenty (120) days of receipt.

Section 20. KRS 244.040 is amended to read as follows:

(1) No brewer or distributor shall sell any alcoholic beverages to any person in this state for any consideration except for cash paid at or before the time of delivery.

(2)[~~No brewer or distributor shall furnish or deliver any bottled malt beverage without collecting a minimum container charge or deposit of sixty cents ($0.60) per case of twenty-four (24) twelve ounce bottles or the equivalent thereof, in the same manner that the price of the malt beverage is collected.~~

~~(3)~~] This section shall not prohibit a licensee from crediting to a purchaser the actual prices charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid by the purchaser for containers or as a deposit on containers when the title is retained by the vendor, if the containers or packages have been returned to the brewer or distributor.

(3)[~~(4)~~] No right of action shall exist to collect any claim for credit extended contrary to this section.

(4)[~~(5)~~] This section shall not apply to sales by wholesalers or distributors to licensees that are private clubs or voluntary associations.

Section 21. KRS 224.43-080 is amended to read as follows:

(1) On July 15, 1994, and annually thereafter, each publisher shall submit a report to the cabinet. The report shall indicate the amount of newsprint used in the preceding year, its recycled content, along with any other information required by the cabinet.

(2) The Governor shall appoint a Newsprint Recycling Task Force consisting of the secretary of the Natural Resources and Environmental Protection Cabinet or a designee; the chairman of the Kentucky Recycling ***and Marketing Advisory Board***[~~Brokerage Authority~~] or a designee; the executive director of the Kentucky Press Association or a designee; three (3) members from environmental organizations; and five (5) members representing the Kentucky newsprint publishing industry and newsprint manufacturers doing business in Kentucky. A list of names of potential task force members shall be provided by the president of the Kentucky Press Association.

(3) The task force members shall each serve a two (2) year term. The initial five (5) industry representatives appointments shall consist of two (2) two (2) year terms and three (3) one (1) year terms.

(4) The Newsprint Recycling Task Force shall meet as necessary to monitor the use of newsprint in the state for the following goals:

(a) To increase the demand for recycled newsprint in Kentucky;

(b) To increase the availability for the product;

(c) To establish Kentucky as a reliable source of old newsprint for recycling; and

(d) To identify, develop, and advance initiatives to recycle and reuse discarded newspapers and paper products with an emphasis on recycling these materials instead of diverting them for disposal.

(5) The Newsprint Recycling Task Force and the Kentucky Press Association shall encourage all Kentucky industries and businesses, their trade or professional organizations, and all public agencies at the state and local level to increase their use of recycled newsprint.

(6) The Newsprint Recycling Task Force shall take steps to attract a recycled newsprint mill or related facility to Kentucky by identifying potential sites and potential manufacturers. The task force shall also work with the Kentucky Recycling ***and Marketing Advisory Board***[~~Brokerage Authority~~] in recommending appropriate economic and tax incentives to encourage such a project.

(7) The Newsprint Recycling Task Force shall promote the increased recovery of old newspapers and, with the Commonwealth of Kentucky representatives, work with communities to develop processing and collection programs to provide quality material to the marketplace.

(8) The Newsprint Recycling Task Force shall report to the Interim Joint Committee on Agriculture and Natural Resources by October 1, 1995, on the availability and cost of adequate supplies of newsprint which contain a recycled content of fifty percent (50%) or more, or any other information or recommendations deemed appropriate.

Section 22. The following KRS section is repealed:

224.01-500 Kentucky Recycling Brokerage Authority -- Powers -- Duties -- Brokerage fee -- Reports.

Section 23. There is appropriated out of the general fund in the State Treasury for the purpose of developing and implementing a container recycling program and to further carry out the provisions of this Act, the amount of three million dollars ($3,000,000) to the Authority for Infrastructure Development.

The Committee Substitute to **HB 371** is as follows:

AN ACT relating to recycling and making an appropriation therefor.

WHEREAS, House Bill 371, introduced for consideration by the 1998 General Assembly and known as the "container deposit bill," presented an approach to the management of litter and the encouragement of recycling not considered by a legislative study group since the Task Force on Container Deposits created by Senate Bill 2 of the 1991 Extraordinary Session; and

WHEREAS, since the 1991 special session on solid waste, the state has made significant progress in the management of solid waste disposal and the encouragement of recycling; and

WHEREAS, House Bill 371 presents an approach to solid waste management that may, if carefully structured to fit into the state's present system of solid waste management, achieve even more progress in eliminating road and creekside litter while leading to greater reuse of discarded materials;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The House Bill 371 Task Force is created and shall be composed of the following: the primary sponsor of House Bill 371; four (4) members of the General Assembly selected by the Legislative Research Commission, two (2) of whom shall be members of the Interim Joint Committee on Agriculture and Natural Resources; a student representative of the Estill County High School; a representative of the Natural Resources and Environmental Protection Cabinet; a representative of the Department of Local Government; a representative of the Kentucky League of Cities; a representative of the Kentucky Association of Counties; a representative of the Kentucky Chapter of the Solid Waste Association of North America; a representative of the Kentuckians for the Commonwealth; a representative of the Kentucky Resources Council; a representative of the Beverage Industry Recycling Program; a representative of the Kentucky Retail Federation; a representative of the Food Service and Packaging Industry; a representative of the Kentucky Beer Wholesalers Association; two (2) members selected by the Legislative Research Commission to represent nonalcoholic beverage bottlers; a representative of the Kentucky Farm Bureau; a representative of the League of Kentucky Sportsmen; a representative of the Kentucky Grocers Association; and a representative of the Kentucky Scrap Processors and Recyclers Association. The Legislative Research Commission shall appoint a legislative member to serve as chairperson of the task force.

Section 2. The House Bill 371 Task Force shall review House Bill 371, introduced for consideration by the 1998 General Assembly, and any amendments or committee substitutes to the bill. The goal of the review shall be to determine in what ways the approach to solid waste management presented by the bill may improve the present structure of solid waste management in Kentucky and achieve that improvement with the least disruption of the present structure. The task force shall conclude its review by issuing a report to the Legislative Research Commission no later than September 30, 1999. The report may contain recommendations for legislative proposals to strengthen the state's waste management programs based upon its review of House Bill 371.

Section 3. The members of the task force shall be reimbursed for expenses incurred to attend task force meetings.

Section 4. Staff services to be utilized in completing this study are estimated to cost $25,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Amendment No. 1 Title to **HB 371** is as follows:

By amending the title to read: "An Act relating to solid waste management."

HB 488, AN ACT relating to forest fire prevention.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 149.370 is amended to read as follows:

No person shall:

(1) Within or adjacent to timberland, dispose of a lighted match, cigarette, cigar, ashes, or other flaming or glowing substance, or any other substance or thing in such condition that it is likely to ignite a forest, brush, grass, or woods fire, or throw or drop any of the aforesaid objects or substances from a moving vehicle or drop or leave any of the aforesaid objects or substances within the limits of the right-of-way of any road or highway in such timberland. The driver of a

moving vehicle shall be deemed prima facie liable where it cannot be determined which of the occupants of the moving vehicle threw or dropped any of the aforesaid objects or substances.

(2) Smoke in timberland during an emergency period of fire danger as proclaimed in KRS 149.405.

(3)[~~Set fire or cause or procure the setting on fire of any flammable material on timberland of another without the consent of the owner.~~

~~(4) Set fire or cause or procure the setting on fire of any flammable material on timberland, without notifying adjacent landowners and without taking reasonable precautions both before and after lighting the fire and at all times thereafter to prevent escape thereof.~~

~~(5) Deposit or leave unattended on any railroad or highway right-of-way within or adjacent to timberland, any fire or live coals, or set or maintain thereon any fire for the purpose of cooking, heating, or providing light or warmth unless such fire is enclosed within a stove, drum, fireplace or other properly prepared location.~~

~~(6)~~] Within or adjacent to timberland, set a backfire or cause a backfire to be set, except under the direct supervision of the Natural Resources and Environmental Protection Cabinet, or unless it can be established that the setting of such backfire is necessary for the purpose of saving life or valuable property.

(4)[~~(7)~~] Without authority, destroy, deface, or remove any notice, sign, or poster of the Natural Resources and Environmental Protection Cabinet, posted for the better protection of wood lots, forests, or wild lands from fire or trespass.

(5)[~~(8)~~] Use or operate within or adjacent to timberland a welding torch, tarpot, or other device which may cause a fire, without clearing flammable material surrounding the operation or without taking such other reasonable precautions necessary to ensure against the starting and spreading of fire.

[~~(9) Light, maintain or use a fire for cooking, heating or providing light or warmth upon lands not his own and within or adjacent to timberland, without first obtaining permission from the owner, lessee or agent thereof.~~

~~(10) Light or maintain within or adjacent to timberland a bonfire within one hundred fifty feet (150') of any house or building.~~]

(6)[~~(11)~~] Discharge or cause to be discharged a gun firing incendiary or tracer bullets or tracer charge or combustible gun wadding onto or across any timberland.

(7)[~~(12)~~] Have in his possession on timberland any incendiary or tracer bullet or tracer charge, except in the course of transporting the same in conformity with law.

(8)[~~(13)~~] ***In or adjacent to timberland, set fire or direct another to set fire to any flammable material for debris removal, cooking, heating, or to provide light without first obtaining permission from the landowner and taking necessary precautions to prevent the fire from spreading to adjacent lands. All burning materials shall be attended until extinguished***[~~Light or maintain within or adjacent to timberland an open fire or campfire without clearing flammable material surrounding such fire as necessary to ensure against the escape or spread thereof, or leave such fire before it is extinguished.~~

~~(14) Kindle or start, or direct another to kindle or start, any fire in or near a public or private road within or adjacent to timberland unless it is under control at all times, and properly extinguished before left~~].

Section 2. KRS 149.375 is amended to read as follows:

It shall be unlawful, within or adjacent to timberland, for any person to set fire to, or to procure another to set fire to, any flammable material upon land owned or leased by him unless he previously shall have taken all reasonable care and precaution, by ***carefully clearing around the flammable material as necessary to prevent the escape or spread of fire***[~~having the flammable material cut and piled or carefully cleared around the same, to prevent the spread of such fires~~] to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to any flammable material, upon such land unless he shall have taken similar precautions to prevent the spread of such fire to any other land. All fires shall be attended until extinguished.

Section 3. KRS 149.400 is amended to read as follows:

(1) The periods commencing on ***February***[~~March~~] 1 and ending on ***April 30***[~~May 15~~] and commencing on October 1 and ending on December 15 of each year are hereby declared to be and established as the fire hazard seasons. During the fire hazard seasons, even though the precautions required by KRS 149.375 shall have been taken, it shall be unlawful for any person to set fire to, or to procure another to set fire to, any flammable material capable of spreading fire, located in or within one hundred fifty feet (150') of any woodland or brushland, except between the hours of ***6:00***[~~4:30~~] p.m. and ***6:00 a.m.***[~~twelve (12) o'clock midnight~~], prevailing local time, or when the ground is covered with snow.

(2) This section shall not apply to fires which may be set for the purpose of burning plant beds.

(3) This section shall not apply to fires which may be set by competent and qualified employees of railroad, utility, or pipeline companies in connection with the construction, operation, or maintenance of railroads, pipelines, powerlines, or other projects in the public interest on rights-of-way used for such railroads, pipelines, powerlines, or other projects, and

such fires shall be attended at all times and be extinguished before the employees of such railroad, utility, or pipeline companies leave the vicinity of the fire.

(4) This section shall not apply to fires set by trained and qualified employees of a state government agency on land owned or leased by the state, and set for the specific purpose of wildlife or plant habitat improvement, ecological site restoration, site preparation for natural or artificial regeneration or fuel reduction. Nongovernmental organizations may apply to the Division of Forestry for written approval to set fires under this subsection. Fires set under this subsection shall be in accordance with Section 2 of this Act. Persons who set such fires shall give written notification of the burn to the local Division of Forestry district office at least twenty-four (24) hours in advance and obtain the approval of the district office.

Section 4. KRS 149.093 is amended to read as follows:

If the violation of any section of this chapter is a misdemeanor and is committed in the presence of a forest warden or other law enforcement officer, and there are reasonable grounds to believe that the person being cited will appear to answer the charge, the warden or officer may, in lieu of a physical arrest directed by KRS 149.090, issue a citation as authorized by KRS 431.015, 431.450, 431.451, 431.452, and 431.455. ***The warden or officer may issue a warning without a penalty in lieu of a citation if the suspected offense is one cited in Section 3 of this Act.***

The Committee Substitute to **HB 488** is as follows:

AN ACT relating to forest fire prevention.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 149.370 is amended to read as follows:

No person shall:

(1) Within or adjacent to timberland, dispose of a lighted match, cigarette, cigar, ashes, or other flaming or glowing substance, or any other substance or thing in such condition that it is likely to ignite a forest, brush, grass, or woods fire, or throw or drop any of the aforesaid objects or substances from a moving vehicle or drop or leave any of the aforesaid objects or substances within the limits of the right-of-way of any road or highway in such timberland. The driver of a moving vehicle shall be deemed prima facie liable where it cannot be determined which of the occupants of the moving vehicle threw or dropped any of the aforesaid objects or substances.

(2) Smoke in timberland during an emergency period of fire danger as proclaimed in KRS 149.405.

(3)[~~Set fire or cause or procure the setting on fire of any flammable material on timberland of another without the consent of the owner.~~

~~(4) Set fire or cause or procure the setting on fire of any flammable material on timberland, without notifying adjacent landowners and without taking reasonable precautions both before and after lighting the fire and at all times thereafter to prevent escape thereof.~~

~~(5) Deposit or leave unattended on any railroad or highway right-of-way within or adjacent to timberland, any fire or live coals, or set or maintain thereon any fire for the purpose of cooking, heating, or providing light or warmth unless such fire is enclosed within a stove, drum, fireplace or other properly prepared location.~~

~~(6)~~] Within or adjacent to timberland, set a backfire or cause a backfire to be set, except under the direct supervision of the Natural Resources and Environmental Protection Cabinet, or unless it can be established that the setting of such backfire is necessary for the purpose of saving life or valuable property.

(4)[~~(7)~~] Without authority, destroy, deface, or remove any notice, sign, or poster of the Natural Resources and Environmental Protection Cabinet, posted for the better protection of wood lots, forests, or wild lands from fire or trespass.

(5)[~~(8)~~] Use or operate within or adjacent to timberland a welding torch, tarpot, or other device which may cause a fire, without clearing flammable material surrounding the operation or without taking such other reasonable precautions necessary to ensure against the starting and spreading of fire.

[~~(9) Light, maintain or use a fire for cooking, heating or providing light or warmth upon lands not his own and within or adjacent to timberland, without first obtaining permission from the owner, lessee or agent thereof.~~

~~(10) Light or maintain within or adjacent to timberland a bonfire within one hundred fifty feet (150') of any house or building.~~]

(6)[~~(11)~~] Discharge or cause to be discharged a gun firing incendiary or tracer bullets or tracer charge or combustible gun wadding onto or across any timberland.

(7)[~~(12)~~] Have in his possession on timberland any incendiary or tracer bullet or tracer charge, except in the course of transporting the same in conformity with law.

(8)[~~(13)~~] ***In or adjacent to timberland, set fire or direct another to set fire to any flammable material for debris removal, cooking, heating, or to provide light without first obtaining permission from the landowner and taking necessary precautions to prevent the fire from spreading to adjacent lands. All burning materials shall be attended until extinguished***[~~Light or maintain within or adjacent to timberland an open fire or campfire without clearing flammable material surrounding such fire as necessary to ensure against the escape or spread thereof, or leave such fire before it is extinguished.~~

~~(14) Kindle or start, or direct another to kindle or start, any fire in or near a public or private road within or adjacent to timberland unless it is under control at all times, and properly extinguished before left~~].

Section 2. KRS 149.375 is amended to read as follows:

It shall be unlawful, within or adjacent to timberland, for any person to set fire to, or to procure another to set fire to, any flammable material upon land owned or leased by him unless he previously shall have taken all reasonable care and precaution, by ***carefully clearing around the flammable material as necessary to prevent the escape or spread of fire***[~~having the flammable material cut and piled or carefully cleared around the same, to prevent the spread of such fires~~] to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to any flammable material, upon such land unless he shall have taken similar precautions to prevent the spread of such fire to any other land. All fires shall be attended until extinguished.

Section 3. KRS 149.400 is amended to read as follows:

(1) The periods commencing on ***February***[~~March~~] 1 and ending on ***April 30***[~~May 15~~] and commencing on October 1 and ending on December 15 of each year are hereby declared to be and established as the fire hazard seasons. During the fire hazard seasons, even though the precautions required by KRS 149.375 shall have been taken, it shall be unlawful for any person to set fire to, or to procure another to set fire to, any flammable material capable of spreading fire, located in or within one hundred fifty feet (150') of any woodland or brushland, except between the hours of ***6:00***[~~4:30~~] p.m. and ***6:00 a.m.***[~~twelve (12) o'clock midnight~~], prevailing local time, or when the ground is covered with snow.

(2) This section shall not apply to fires which may be set for the purpose of burning plant beds.

(3) This section shall not apply to fires which may be set by competent and qualified employees of railroad, utility, or pipeline companies in connection with the construction, operation, or maintenance of railroads, pipelines, powerlines, or other projects in the public interest on rights-of-way used for such railroads, pipelines, powerlines, or other projects, and such fires shall be attended at all times and be extinguished before the employees of such railroad, utility, or pipeline companies leave the vicinity of the fire.

(4) This section shall not apply to fires set by trained and qualified employees of a state government agency on land owned or leased by the state, and set for the specific purpose of wildlife or plant habitat improvement, ecological site restoration, site preparation for natural or artificial regeneration or fuel reduction. Nongovernmental organizations may apply to the Division of Forestry for written approval to set fires under this subsection. Fires set under this subsection shall be in accordance with Section 2 of this Act. Persons who set such fires shall give written notification of the burn to the local Division of Forestry district office at least twenty-four (24) hours in advance and obtain the approval of the district office.

Section 4. KRS 149.093 is amended to read as follows:

If the violation of any section of this chapter is a misdemeanor and is committed in the presence of a forest warden or other law enforcement officer, and there are reasonable grounds to believe that the person being cited will appear to answer the charge, the warden or officer may, in lieu of a physical arrest directed by KRS 149.090, issue a citation as authorized by KRS 431.015, 431.450, 431.451, 431.452, and 431.455. ***The warden or officer may issue a warning without a penalty in lieu of a citation if the suspected offense is one cited in Sections 1, 2, and 3 of this Act, KRS 149.385, 149.390, 149.395, 149.401, or 149.405.***

Section 5. KRS 149.180 is amended to read as follows:

Whenever possible, the secretary for natural resources and environmental protection shall collect the costs of firefighting done and approved as provided in KRS 149.160, from the person responsible for the origin of the fire by his negligence or intent***. The recovered costs shall be deposited in***[~~, and shall return any costs so collected to~~] a special fund in the Natural Resources and Environmental Protection Cabinet***. The recovered costs***[~~, and such amounts~~] shall be repaid to the county in which the costs were incurred, if such county has fully paid its annual assessment to the statewide system as provided for in KRS 149.540 ***for the year in which the fire suppression costs were incurred. If a county is not eligible to receive the recovered costs, the money shall be used by the Division of Forestry to improve fire protection services***. The funds so repaid to the county shall be placed in the county forest fire protection fund provided for in KRS 149.590. ***Any money in the Natural Resources and Environmental Protection Cabinet's special fund upon the effective date of Sections 1 to 6 of this Act, that were not repaid to a county for having failed to fully pay its annual assessment, shall be used by the Division of Forestry to improve fire protection services.*** In the event the suppression cost is not collected, the Commonwealth's attorney of the county in which the fire occurred shall institute and prosecute the necessary proceedings.

Section 6. KRS 149.160 is amended to read as follows:

When ***the Natural Resources and Environmental Protection Cabinet determines that a danger of forest fire exists***[~~any forest warden sees or there is reported to him a forest fire,~~] in a county in which the statewide system of forest fire protection has been established under KRS 149.510 to 149.600, ***the cabinet shall respond to the forest fire danger***[~~he shall repair immediately to the scene of the fire~~] and employ ***those***[~~such~~] persons and means as, in ***its***[~~his~~] judgment, are expedient and necessary to ***respond to the forest fire danger or to*** extinguish the fire, within the limits of the expense ***that it***[~~he~~] has been authorized to incur in ***its***[~~his~~] instructions from the secretary for natural resources and environmental protection. ***The cabinet***[~~He~~] shall keep an itemized account of all expenses thus incurred and immediately send the account verified by affidavit to the secretary for natural resources and environmental protection for examination. Upon approval by the secretary for natural resources and environmental protection, the account shall be paid from such fund or funds as are available to the ***cabinet***[~~department~~] for such purpose. No such payment shall be made to any person who has intentionally started the fire or to any person whose negligence caused or contributed to the setting of the fire.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the three day posting requirement be waived on **HB 772**, **HB 766**, and **HB 757**. Agreed.

Representative Stumbo moved that **HB 700** be reassigned to Tourism Development and Energy. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 843**, by Representative Murgatroyd:

On page 1, line 10, after "***means***", by deleting "***up to***" and inserting "***a minimum of***"; and

On page 4, line 17, after "***of***" by deleting "***not more than***" and inserting "***not less than***".

Motions, Petitions and Communications

Representative Long moved the adoption of the following **Legislative Citation No. 122**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest condolences and genuine expressions of sympathy for the grievous death of Joe C. Carroll. Members of the House of Representatives do honor said individual and his devastated family, whose loss is irreplaceable. This prestigious body doth share in this phenomenal tragedy of both family and the community of New Castle, Kentucky, where Joe C. Carroll was a respected citizen, loving husband and father who shall always be remembered by his kindness and gentleness; therefore, this honorable body offers the hope that Joe C. Carroll is serene beyond the cares and worries of this world and is now wearing that crown of jewels so ardently deserved. The Kentucky House of Representatives doth hereby adjourn this third day of March, nineteen hundred and ninety-eight, in memory of this extraordinary person who is revered by so many. **Legislative Citation No. 122** was adopted without objection.

Representative Colter moved the adoption of the following **Legislative Citation No. 126**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Ledford Jackson former Clay County judge-executive. This extraordinary man has left a legacy of honor and integrity reflected by his sterling accomplishments on behalf of the citizens of Clay County. During his exceptional tenure as judge, Mr. Jackson was instrumental in the $1 million dollar Pennington Hill Renovation Project and also started the county ambulance service. He was seeking his second term as judge-executive. The members of this august body are honored to join with Representative Barbara White Colter in offering deepest sympathy and solace to all those who share in the loss of this distinguished gentleman of the Commonwealth and in adjourning this legislative day in his memory. **Legislative Citation No. 126** was adopted without objection.

Representative Geveden moved the adoption of the following **Legislative Citation No. 123**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby expresses its congratulations to Josh Metzger upon being elected governor of the 1997 session of Kentucky Boys State held at Morehead State University. A student at Heath High School, Mr. Metzger served in this prestigious position during the week-long session sponsored by the American Legion. During his brief but bountiful tenure, this promising young leader had the opportunity to experience the legislative process first hand and came away well-informed about state and local government. Inasmuch as this dedicated young Kentuckian has demonstrated outstanding leadership abilities and exceptional skill in the democratic process, the members of the House of Representatives are pleased to join Representative Charles Geveden in commending Josh Metzger for his extraordinary initiative and in extending sincere best wishes for his continued success **Legislative Citation No. 123** was adopted without objection.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 51**, Representatives Newsome, Brown; **HB 51, HB 128, HB 677**, Representative P. Clark; **HB 206**, Representative Crenshaw; **HB 255, HB 494, HB 627, HB 840**, Representative Marzian; **HB 424, HB 546**, Representative Wayne; **HB 518**, Representative Colter; **HB 592**, Representative Riggs; **HB 644**, Representative Brandstetter; **HB 840**, Representatives Jenkins, Jordan; **HB 849**, Representatives Wilkey, Vincent.

The following member filed a request to have his name withdrawn as co-sponsors of Bills under rules previously suspended: **HB 709**, Representative Nesler.

Representative Pope moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Pope moved that he be recorded as voting "yea" on **HB 381, HB 406, HB 427, HB 439, HB 455, HB 470, HB 515, HB 528, HB 549, HB 565, HB 572, HB 577, HB 609**,and **HB 622**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jordan moved that she be recorded as voting "yea" on **HB 272**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hoffman moved that he be recorded as voting "yea" on **HB 518**. Agreed.

Representative Hogancamp moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hogancamp moved that she be recorded as voting "yea" on **HB 515, HB 427, HB 528, HB 470, HB 609, HB 565**, and "nay" on **HB 439**. Agreed. Repesentative Hogancamp moved that her vote be changed from "nay" to "yea" on **HCR 77**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crenshaw moved that he be recorded as voting "yea" on **HB 602, HB 624, HB 188, HB 592, HB 614, HB 651, HB 279, HB 446, HB 518, HB 272, HB 273, HB 274** and **HB 632**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Barrows moved that he be recorded as voting "yea" on **HB 279**. Agreed.

Representative Brandstetter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Brandstetter moved that he be recorded as voting "yea" on **HB 592**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Simpson moved that his vote be changed from "yea" to "nay" on **HB 279**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Vincent moved that he be recorded as voting "nay" on **HB 651**, and **HB 602**,and "yea" **HB 188, HB 624**, and **HB 545**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Colter moved that she be recorded as voting "yea" on **HB 188, HB 592**, and **HB 624**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Yonts moved that he be recorded as voting "yea" on **HB 602** and **HB 624**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Ratliff moved that his vote be changed from "yea" to "nay" on **HB 602**. Agreed.

Representative Coleman moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Coleman moved that he be recorded as voting "yea" on **HB 455**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Wilkey moved that he be recorded as voting "yea" on **HB 602**. Agreed.

Representative Murgatroyd moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Murgatroyd moved that he be recorded as voting "yea" on **HB 273, HB 274**, and **HB 275**. Agreed.

Representative Callahan moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Callahan moved that he be recorded as voting "yea" on **HB 273** and **HB 274**. Agreed.

Representative Hoover moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hoover moved that he be recorded as voting "yea" on **HB 455**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Baugh moved that his vote be changed from "yea" to "nay" on **HB 651**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hoffman moved that he be recorded as voting "yea" on Floor Amendment No. 1 to **HB 410**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Gooch moved that his vote be changed from "nay" to "yea" on **HB 410**. Agreed.

Announcements

The following meetings were announced:

Licensing and Occupations, Noon, March 4, 1998.

Budget Review Subcommittee on Transportation, 1:00 p.m., March 4, 1998.

Labor and Industry, Public Hearing, 15 minutes upon adjournment, March 4 and 5, 1998, Room 149.

State Government, 9:00 a.m., Room 131.

Cities, 2:00 p.m., March 4, 1998.

Appropriations and Revenue, Room 129, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 4, 1998.

On the roll call the vote was **Yeas 66**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, Ballard, Baugh, Brandstetter, Bratcher, Brown, D. Butler, D. D. Butler, Callahan, L. Clark, Coleman, Colter, Crenshaw, Crimm, Damron, Ford, Gee, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Johns, Jordan, Kerr, Lee, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Palumbo, Polston, Rader, Rasche, Richards, Riggs, Riner, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts. **Nays 9**--Allen, Cave, P. Clark, Crall, Gooch, Maricle, Nesler, Nunn, Stewart.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 4, 1998

THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend John Toby, First Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bowling, Deskins and Lovell.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 3, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 521**, by Representative Crimm:

On page 3, line 3, after the second use of "facilities", by placing an opening bracket and striking through "constitute a portion of a tourism";

On page 3, line 4, by striking through line 4 in its entirety;

On page 3, line 5, by striking through "approved cost of the tourism attraction project" and placing a closing bracket after "project";

On page 3, line 5, by deleting "***, except that lodging facilities***"; and

On page 3, line 6, by deleting lines 6 through 9 and by inserting in lieu thereof, "***involve the restoration or rehabilitation of a structure that is listed individually in the National Register of Historic Places; are located in a National Register Historic District and certified by the Kentucky Heritage Council as contributing to the historic significance of the district; or the rehabilitation or restoration project has been approved in advance by the Kentucky Heritage Council***".

Floor Amendment No. 1 to the Committee Substitute to **HB 460**, by Representative Long:

On page 9, line 13, after the period "***.***" by deleting the following: "***All personal service contracts and memoranda of***";

On page 9, by deleting lines 14 in its entirety;

On page 9, line 15, by deleting the phrase "***canceled upon disapproval of the committee***" and inserting in lieu thereof the following: "***All personal service contracts and memoranda of agreement shall contain a provision that stipulates that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after committee disapproval***".

Senate Message

Announcing passage of **SB 11, SB 205, SB 248, SB 257, SB 295, SCR 95,** and **HB 99**. (Time: 2:05 p.m.)

Introduction of Bills and Resolutions

HB 865, by Representatives Miller, L. Clark, Horlander, Jenkins, Maricle, D. Butler, Bratcher, Anderson, and Hoffman: AN ACT relating to highway safety.

HB 866, by Representative Clarke: AN ACT relating to equal opportunities.

HB 867, by Representative Clarke: AN ACT relating to agreements.

HB 868, by Representative Clarke: AN ACT relating to reasonable limitations on employment litigation.

HB 869, by Representative Anderson: AN ACT relating to sales and use tax.

HB 870, by Representative Anderson: AN ACT relating to local school district health insurance.

HB 871, by Representative Anderson: AN ACT relating to county clerks.

HB 872, by Representative Anderson: AN ACT relating to parent and child.

HB 873, by Representative Anderson: AN ACT relating to insurance.

HB 874, by Representative Anderson: AN ACT relating to watercraft.

HB 875, by Representative Anderson: AN ACT relating to legislative ethics.

HB 876, by Representative Yonts: AN ACT relating to disability retirement.

HB 877, by Representative Yonts: AN ACT relating to all-terrain vehicle use on areas designated by the Department of Fish and Wildlife Resources.

HB 878, by Representative Murgatroyd: AN ACT relating to private investigators.

HB 879, by Representative Murgatroyd: AN ACT relating to revenue and taxation.

HB 880, by Representatives Haydon and Gray: AN ACT relating to escheats.

HB 881, by Representative Burch: AN ACT relating to horse racing.

HB 882, by Representative Barrows: AN ACT relating to elementary and secondary education and declaring an emergency.

HJR 118, by Representative Mason: A JOINT RESOLUTION directing the Transportation Cabinet to name US 23 current route from the Letcher/Pike County line to the top of Dorton Hill in honor of Marlow Tackett and to erect appropriate highway signs.

HCR 119, by Representatives Gray, Geveden, Yonts, Murgatroyd, Rasche, Nesler, Deskins, Haydon, J. Adams, Nunn, Walton, Allen, Gooch, Kerr, Sims, Wilkey, Baugh, Ford, Treesh, Napier, Collins, Jenkins, Polston, Curd, J. Arnold, Ballard, Brown, Bruce, Thomas, Lee, Hogancamp, Maricle, A. Arnold, DeWeese, Brandstetter, Yonts, Hoffman, Ratliff, and Adkins: A CONCURRENT RESOLUTION authorizing and directing a comprehensive study of highway signage in Kentucky.

HJR 120, by Representative Gray: A JOINT RESOLUTION directing the Transportation Cabinet to apply to the Federal Highway Administration for permission to experiment with a new usage of post-interchange signs.

HJR 121, by Representatives Richards, Stumbo, L. Clark, Barrows, and Callahan: A JOINT RESOLUTION proclaiming the fourth week of March each year as "Commonwealth Cleanup" week, and directing the Natural Resources and Environmental Protection Cabinet to support those communities that engage in spring cleaning in celebration of Kentucky's natural beauty.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HJR 117**

Appropriations and Revenue: **HB 850**

Cities: **HB 837, HB 863, HB 854**

Counties and Special Districts: **HB 810, HB 811, HB 821, HB 829, HB 831, HB 856**

Economic Development: **HB 843**

Education: **HB 814, HB 815, HB 823, HB 828, HB 858, HB 859**

Elections and Constitutional Amendments: **HB 839, HCR 112**

Health and Welfare: **HB 826, HB 848, HB 864, HCR 114**

Judiciary: **HB 808, HB 812, HB 817, HB 818, HB 819, HB 824, HB 830, HB 832, HB 833, HB 834, HB 835, HB 836, HB 838, HB 840, HB 841, HB 842, HB 844, HB 845, HB 846, HB 851, HB 852, HB 855, SB 88, SB 146, SB 250**

Labor and Industry: **HB 822, HB 847**

Licensing and Occupations: **HB 860, HB 861**

Natural Resources and Environment: **HB 825, SB 214**

State Government: **HB 813, HB 816, HB 853, HB 857, HB 862, HCR 113**

Transportation: **HB 809, HB 820, HB 827, HB 849, HR 111, HJR 115, HJR 116, SB 233**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the posting on the following Bill has been withdrawn:

Labor and Industry: **HB 713**

Report of Committees

The Committee on State Government reported **HB 503,** with Committee Substitute attached thereto, **HB 539, HB 590, HB 640,** with Committee Substitute attached thereto, **HB 682, HB 708, HCR 82, SB 161,** and **SB 165** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 503, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.020 is amended to read as follows:

(1) The Revenue Cabinet shall be organized into the following functional units:

(a) Office of the Secretary. The Office of the Secretary shall include principal assistants and personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of the office;

(b) ***Office of Financial and Administrative Services. The Office of Financial and Administrative Services shall be headed by an executive director. The functions and duties of the office shall include record keeping, providing data services, serving as liaison with federal and state agencies, preparing publications, and providing personnel, fiscal, and financial management services. For administrative and budgetary purposes, the Office of Financial and Administrative Services shall be attached to the Office of the Secretary of Revenue;***

(c) Department of Law. The Department of Law shall be headed by a commissioner[~~Office of General Counsel. The Office of General Counsel shall be headed by an executive director~~]. The functions and duties of the ***department***[~~office~~] shall include establishing Revenue Cabinet tax policies, conducting tax research, ***collecting delinquent taxes,*** conducting conferences, administering taxpayer protests, issuing final rulings, and representing the cabinet in legal and administrative actions.[~~ For administrative and budgetary purposes, the Office of General Counsel shall be attached to the Office of the Secretary of Revenue.~~] The ***Department of Law***[~~Office of General Counsel~~] shall consist of the divisions of legal services, protest resolution,[~~ and~~] tax policy***, collections,*** and research;

(d)[~~(c)~~]Department of Property ***Valuation***[~~Taxation~~]. The Department of Property ***Valuation***[~~Taxation~~] shall be headed by a commissioner. The functions and duties of the department shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, and administering tangible and intangible personal property taxes. The Department of Property ***Valuation***[~~Taxation~~] shall consist of the Divisions of Local Valuation, State Valuation, and Technical Support;

(e)[~~(d)~~]Department of ***Tax Administration***[~~Compliance and Taxpayer Assistance~~]. The Department of ***Tax Administration***[~~Compliance and Taxpayer Assistance~~] shall be headed by a commissioner. The functions and duties of the department shall include conducting audits, reviewing audits, rendering taxpayer assistance,[~~ collecting delinquent taxes,~~] administering all activities relating to assessments issued pursuant to KRS 139.185, 139.680, 141.340, and 143.085, enforcing the criminal laws of the state involving revenue and taxation, and representing the cabinet in legal and administrative actions involving the collection of delinquent taxes. The Department of ***Taxpayer Administration***[~~Compliance and Taxpayer Assistance~~] shall consist of the Divisions of[~~ Collections,~~] Field Operations, ***Revenue Operations,*** and ***Compliance and Taxpayer Assistance***[~~Tax Administration~~]; and

(f)[~~(e)~~] ***Department of Information Technology. The Department of Information Technology shall be headed by a commissioner. The functions and duties of the department shall include information availability, processing, management, and other technology issues. The Department of Information Technology shall consist of the Division of Information Technology***[~~Department of Administrative Services. The Department of Administrative~~

~~Services shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, providing data services, providing liaison with federal and state agencies, preparing publications, and providing personnel, fiscal and financial management services. The Department of Administrative Services shall consist of the Divisions of Financial and Administrative Services, Information Systems Resources, and Revenue Operations~~].

(2) The functions and duties of the Cabinet shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the Cabinet shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the Department of ***Tax Administration***[~~Compliance and Taxpayer Assistance~~] and the ***Office of Financial and***[~~Department of~~] Administrative Services, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) The Cabinet shall fully cooperate with and make tax information available to the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
4. Department of Law.
    (a) Attorney General.
5. Department of the Treasury.
    (a) Treasurer.
6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Medical Examiner Program.
    (i) Parole Board.

(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
   (a) Department of Education.
      (1) Kentucky Board of Education.
      (2) Education Professional Standards Board.
   (b) Department for Libraries and Archives.
   (c) Kentucky Arts Council.
   (d) Kentucky Educational Television.
   (e) Kentucky Historical Society.
   (f) Kentucky Teachers' Retirement System Board of Trustees.
   (g) Kentucky Center for the Arts.
   (h) Kentucky Craft Marketing Program.
   (i) Kentucky Commission on the Deaf and Hard of Hearing.
   (j) Governor's Scholars Program.
   (k) Governor's School for the Arts.
   (l) Office of Development.
   (m) Kentucky Heritage Council.
   (n) Kentucky African-American Heritage Commission.
3. Natural Resources and Environmental Protection Cabinet:
   (a) Environmental Quality Commission.
   (b) Kentucky Nature Preserves Commission.
   (c) Department for Environmental Protection.
   (d) Department for Natural Resources.
   (e) Department for Surface Mining Reclamation and Enforcement.
   (f) Office of Legal Services.
   (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
   (a) Department of Highways.
   (b) Department of Vehicle Regulation.
   (c) Department of Administrative Services.
   (d) Department of Fiscal Management.
   (e) Department of Rural and Municipal Aid.
   (f) Office of Aeronautics.
   (g) Office of General Counsel.
   (h) Office of Public Relations.
   (i) Office of Personnel Management.
   (j) Office of Minority Affairs.
   (k) Office of Environmental Affairs.
5. Cabinet for Economic Development:
   (a) Department of Administration and Support.
   (b) Department of Job Development.
   (c) Department of Financial Incentives.
   (d) Department of Community Development.
   (e) Tobacco Research Board.
   (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.

(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
   (a) Department of Workplace Standards.
   (b) Department of Workers' Claims.
   (c) Kentucky Labor-Management Advisory Council.
   (d) Occupational Safety and Health Standards Board.
   (e) Prevailing Wage Review Board.
   (f) Workers' Compensation Board.
   (g) Kentucky Employees Insurance Association.
   (h) Apprenticeship and Training Council.
   (i) State Labor Relations Board.
   (j) Kentucky Occupational Safety and Health Review Commission.
   (k) Office of Administrative Services.
   (l) Office of Labor Management Relations.
   (m) Office of General Counsel.
   (n) Workers' Compensation Funding Commission.
   (o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
   (a) Department of Property ***Valuation***[~~Taxation~~].
   (b) Department of ***Tax Administration***[~~Compliance and Taxpayer Assistance~~].
   (c) ***Office of Financial and***[~~Department of~~] Administrative Services.
   (d) ***Department of Law***[~~Office of General Counsel~~].
   (e) Department of Information Technology.

11. Tourism Cabinet:
   (a) Department of Travel Development.
   (b) Department of Parks.
   (c) Department of Fish and Wildlife Resources.
   (d) Kentucky Horse Park Commission.
   (e) State Fair Board.
   (f) Office of Administrative Services.
   (g) Office of Film Promotion.
   (h) Office of General Counsel.

12. Cabinet for Workforce Development:
   (a) Department for Adult Education and Literacy.
   (b) Department for Technical Education.
   (c) Department of Vocational Rehabilitation.
   (d) Department for the Blind.
   (e) Department for Employment Services.
   (f) State Board for Adult and Technical Education.
   (g) Governor's Council on Vocational Education.
   (h) The State Board for Proprietary Education.
   (i) The Foundation for Adult Education.
   (j) The Kentucky Job Training Coordinating Council.
   (k) Office of General Counsel.
   (l) Office of Communication Services.
   (m) Office of Development and Industry Relations.

(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
    (a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 3. The General Assembly hereby confirms Executive Order 97-715, dated June 11, 1997, relating to the reorganization of the offices, departments, and divisions within the Kentucky Revenue Cabinet, to the extent it is not otherwise confirmed by this Act.

The Committee Substitute to **HB 503** is as follows:

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.020 is amended to read as follows:

(1) The Revenue Cabinet shall be organized into the following functional units:

(a) Office of the Secretary. The Office of the Secretary shall include ***the Office of the Taxpayer Ombudsman, the Office of Financial and Administrative Services,*** principal assistants and ***other*** personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of the office;

(b) ***Office of Financial and Administrative Services. The Office of Financial and Administrative Services shall be headed by an executive director. The functions and duties of the office shall include personnel services, administrative support, preparation and administration of the budget, training, and asset management;***

(c) Office of Taxpayer Ombudsman. The Office of Taxpayer Ombudsman shall be headed by a taxpayer ombudsman as established by KRS 131.051(1). The functions and duties of the office shall consist of those established by KRS 131.071;

(d) Department of Law. The Department of Law shall be headed by a commissioner[~~Office of General Counsel. The Office of General Counsel shall be headed by an executive director~~]. The functions and duties of the ***department***[~~office~~] shall include establishing Revenue Cabinet tax policies, ***providing information to the public,*** conducting tax research, ***collecting delinquent taxes,*** conducting conferences, administering taxpayer protests, issuing final rulings, ***administering all activities relating to assessments issued pursuant to KRS 138.885, 139.185, 139.680, 141.340, 142.357, and 143.085, enforcing the criminal laws of the Commonwealth involving revenue and taxation,*** and representing the cabinet in legal and administrative actions.[~~ For administrative and budgetary purposes, the Office of General Counsel shall be attached to the Office of the Secretary of Revenue.~~] The ***Department of Law***[~~Office of General Counsel~~] shall consist of the divisions of legal services, protest resolution,[~~ and~~] tax policy***, collections,*** and research;

(e)[~~(c)~~] Department of Property ***Valuation***[~~Taxation~~]. The Department of Property ***Valuation***[~~Taxation~~] shall be headed by a commissioner. The functions and duties of the department shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources,[~~ and~~] administering tangible and intangible personal property taxes***, and collecting delinquent taxes***. The Department of Property ***Valuation***[~~Taxation~~] shall consist of the Divisions of Local Valuation, State Valuation, and Technical Support;

(f)[~~(d)~~] Department of ***Tax Administration***[~~Compliance and Taxpayer Assistance~~]. The Department of ***Tax Administration***[~~Compliance and Taxpayer Assistance~~] shall be headed by a commissioner. The functions and duties of the department shall include ***recordkeeping,*** conducting audits, reviewing audits, rendering taxpayer assistance, ***and*** collecting delinquent taxes[~~, administering all activities relating to assessments issued pursuant to KRS 139.185, 139.680, 141.340, and 143.085, enforcing the criminal laws of the state involving revenue and taxation, and representing the cabinet in legal and administrative actions involving the collection of delinquent taxes~~]. The Department of ***Tax Administration***[~~Compliance and Taxpayer Assistance~~] shall consist of the Divisions of[~~ Collections,~~] Field Operations, ***Revenue Operations,*** and ***Compliance and Taxpayer Assistance***[~~Tax Administration~~]; and

(g)[~~(e)~~]Department of ***Information Technology***[~~Administrative Services~~]. The Department of ***Information Technology***[~~Administrative Services~~] shall be headed by a commissioner. The functions and duties of the department shall include ***the development and maintenance of technology and information management systems in support of all units of the cabinet***[~~recordkeeping, providing data services, providing liaison with federal and state agencies, preparing publications, and providing personnel, fiscal and financial management services~~]. The Department of ***Information Technology***[~~Administrative Services~~] shall consist of the ***Division***[~~Divisions~~] of ***Systems Planning and Development and the Division of Technology Infrastructure Support***[~~Financial and Administrative Services, Information Systems Resources, and Revenue Operations~~].

(2) The functions and duties of the cabinet shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the cabinet shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the ***cabinet***[~~Department of Compliance and Taxpayer Assistance and the Department of Administrative Services~~], and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(3) The cabinet shall fully cooperate with and make tax information available to the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Superintendent of Public Instruction.
    8. Auditor of Public Accounts.
    9. Railroad Commission.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.

(c) Department of Corrections.
(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) Offices of the Deputy Secretaries.
(g) Office of General Counsel.
(h) Medical Examiner Program.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
  (1) Kentucky Board of Education.
  (2) Education Professional Standards Board.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Office of Development.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:

(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.

(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.
9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.
10. Revenue Cabinet:
(a) Department of Property ***Valuation***~~[Taxation]~~.
(b) Department of ***Tax Administration***~~[Compliance and Taxpayer Assistance]~~.
(c) ***Office of Financial and***~~[Department of]~~ Administrative Services.
(d) ***Department of Law***~~[Office of General Counsel]~~.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.
11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.
12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.

(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
   (a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 3. The General Assembly hereby confirms Executive Order 97-715, dated June 11, 1997, relating to the reorganization of the offices, departments, and divisions within the Kentucky Revenue Cabinet, to the extent it is not otherwise confirmed by this Act.

HB 539, AN ACT relating to liability insurance for members of the Kentucky National Guard.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 38 IS CREATED TO READ AS FOLLOWS:

The Adjutant General may purchase liability insurance for the protection of members of the Kentucky National Guard called to state active duty by the Governor under KRS 38.030 to protect them for acts, omissions, and claims arising in the course and scope of their employment or service to the Kentucky National Guard and the Commonwealth. The Adjutant General may purchase the type and amount of liability coverage deemed appropriate to best serve the interests of the Kentucky National Guard and its members.

HB 590, AN ACT relating to Social Security coverage of public employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.410 is amended to read as follows:

(1) It is declared to be the policy of the General Assembly to extend the federal old-age, survivors***,***[~~and~~] disability***, and hospital*** insurance coverage to all public employees regardless of whether ***the***[~~such~~] employees are occupying positions which are covered by a retirement system; but no employee occupying a position to which KRS 161.220 to 161.710 are applicable shall be held to fall within the class of persons sought to be affected by this statement of policy except for employees of the state universities[~~, Kentucky State College,~~] and public junior colleges.

(2) It is also the policy of the General Assembly that the protection afforded public employees by membership in a retirement system or by the right to receive periodic benefits under a retirement system will not be impaired as a result of any agreement made between the Commonwealth and the ***commissioner***[~~secretary~~] pursuant to KRS 61.410 to 61.500.

(3) The General Assembly ratifies the extension of federal old-age, survivors***,***[~~ and~~] disability***, and hospital*** insurance coverage to public employees in positions covered by a retirement system prior to June 14, 1962, if the procedures specified by former KRS 61.430(6) were substantially followed.

Section 2. KRS 61.420 is amended to read as follows:

For the purpose of KRS 61.410 to 61.500:

(1) "Wages" means all remuneration for employment as defined ***in subsection (2) of this section***[~~herein~~], including the cash value of all remuneration paid in any medium other than cash, except that ***the***[~~such~~] term shall not include that part of the remuneration which, even if it were for "employment" within the meaning of Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act;

(2) "Employment" means any service performed by an employee in the employ of the Commonwealth, a political subdivision, or an interstate instrumentality, for those employers, except (a) service of an emergency nature, (b) service which in the absence of an agreement entered into under KRS 61.410 to 61.500 would constitute "employment" as defined in the Social Security Act, or (c) service which under the Social Security Act may not be included in any agreement between the Commonwealth and the ***commissioner***[~~secretary~~] entered into under KRS 61.410 to 61.500; ***except***[~~provided, however,~~] that service, the compensation for which is on a fee basis, may be excluded in any plan approved under KRS 61.410 to 61.500, and provided also, that service in any class or classes of positions, the exclusion of which is permitted under the Social Security Act, may be excluded in any plan approved under KRS 61.460;

(3) "Employee" means any person in the service of the Commonwealth, a political subdivision or an interstate instrumentality of which the Commonwealth is a principal and shall include all persons designated officers including those which are elected and those which are appointed;

(4) "State agency" means the Division of Social Security, Office of the Controller, which agency shall be subject to the authority of the secretary of finance and administration;

(5) "Political subdivision," in addition to counties, municipal corporations, and school districts, includes instrumentalities of the Commonwealth, of one (1) or more of its political subdivisions, or of the Commonwealth and one (1) or more of its political subdivisions, and any other governmental unit thereof;

(6) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," including regulations and requirements issued pursuant thereto, as that act has been and may from time to time be amended;

(7) "Federal Insurance Contributions Act" means ***subchapters***[~~subchapter~~] A***, B, and C*** of Chapter ***21***[~~9~~] of the Federal Internal Revenue Code and all amendments thereto;

(8) "***Commissioner***[~~Secretary~~]" means the ***commissioner of Social Security***[~~Secretary of Health, Education and Welfare~~] and includes any individual to whom the ***commissioner***[~~secretary~~] may delegate any of ***the commissioner's***[~~his~~] functions under the Social Security Act; and, with respect to any transactions regarding insurance coverage occurring prior to April 11, 1953, includes the federal security administrator and any individual to whom ***the administrator***[~~he~~] may have delegated any of ***the administrator's***[~~his~~] functions under the Social Security Act; ***and, with respect to any transactions regarding insurance coverage occurring from April 11, 1953 to March 30, 1995, includes the secretary of health and human services and any individual to whom the secretary may have delegated any of the secretary's functions under the Social Security Act;***

(9) "Insurance coverage" means coverage by the old-age, survivors***,***[~~ and~~] disability***, and hospital*** insurance provisions of the Social Security Act[~~;~~

~~(10) "Sick leave with pay" means any payment made in lieu of salary on account of sickness or accident disability~~].

Section 3. KRS 61.430 is amended to read as follows:

Consistent with the terms and conditions of KRS 61.410 to ***61.500***[~~61.490~~], the state agency, with the approval of the Governor, is hereby authorized to enter into an agreement with the ***commissioner***[~~secretary~~] for the purpose of extending insurance coverage to employees with respect to services specified in ***the***[~~such~~] agreement which constitute employment as defined in KRS 61.420. An agreement entered into under this section may contain provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration and other appropriate provisions as the state agency and ***commissioner***[~~secretary~~] shall agree upon. Any agreement, subject to the provisions of the Social Security Act, shall provide in effect that:

(1) Insurance coverage shall be provided for employees whose services are described in the agreement, and their dependents and survivors on the same basis as though ***the***[~~such~~] services constituted employment within the meaning of Title II of the Social Security Act;

(2) The state shall pay to the secretary of the Treasury, at[~~ such~~] times[~~ as may be~~] prescribed under the Social Security Act, contributions with respect to wages equal to the sum of the taxes imposed by sections ***3101***[~~1400~~] and ***3111***[~~1410~~] of the Federal Insurance Contributions Act if the services covered by the agreement constitute employment within the meaning of that act;

(3) Insurance coverage will be afforded with respect to services performed after an effective date specified in the agreement or modification thereof; ***except***[~~provided, however,~~] that ***the effective***[~~such~~] date shall not be earlier than January 1, 1955, in the case of an agreement or modification made between January 1, 1955, and January 1, 1958; or earlier than

January 1, 1956, in the case of an agreement or modification made at any time in the years 1958 or 1959; or earlier than the first day of the year in which the agreement or modification was made, in the case of an agreement or modification made at any time between January 1, 1960, and July 1, 1962; or earlier than the first day of the fifth year preceding the year in which the agreement or modification is made, in the case of an agreement or modification made at any time after July 1, 1962;

(4) Insurance coverage shall be afforded with respect to all services constituting employment; ***except that***[~~provided, however,~~] in order for insurance coverage to be afforded with respect to services performed in the employ of a political subdivision of the state there must be in existence in regard to those services a plan which meets the requirements of KRS 61.460;

(5) Subject to the provisions of KRS 61.435, insurance coverage shall be afforded with respect to all services in positions covered by a retirement system; ***except***[~~provided, however,~~] that no agreement ***shall***[~~will~~] be effective to afford insurance coverage to any services performed in positions to which KRS 161.220 to 161.710 are applicable except for services performed in positions in a state ***university***[~~college~~] or public junior college.

Section 4. KRS 61.435 is amended to read as follows:

(1) In order for any service performed by an employee in a position covered by a retirement system to be included in an agreement as permitted by KRS 61.430, a majority of the members of ***the***[~~such~~] retirement system must vote in the affirmative on the question of whether the service covered by the retirement system should be included in the agreement. The procedure for obtaining the vote of the members of the retirement systems shall be as follows:

(a) Upon request of the political subdivision concerned, the Governor shall authorize a referendum within the retirement system concerned and designate an agency or individual to supervise the manner of conducting it;

(b) Any[~~ such~~] referendum shall be conducted in accordance with the requirements of Section 218 (d) (3) of the Social Security Act;

(c) The votes shall be cast in secret on written ballots;

(d) An opportunity to vote shall be given only to those employees who occupied positions covered by ***the***[~~such~~] retirement system, and were members of ***the***[~~such~~] system, on the date upon which the notice of referendum was given and on the date upon which the referendum was held; and

(e) Notice that the referendum is to be conducted shall be given to every member of the retirement system at least ninety (90) days before the date the referendum is held.

(2) Upon receiving satisfactory evidence that the conditions specified in this section and Section 218 (d) (3) of the Social Security Act have been fulfilled, the Governor or any agency or individual designated by him shall so certify to the ***commissioner***[~~Secretary~~].

(3) For purposes of this section, in any case where a retirement system covers the employees of two (2) or more political subdivisions, or of the Commonwealth and one or more political subdivisions, there are deemed to exist separate retirement systems with respect to the Commonwealth or each political subdivision. Also for purposes of this section, where a retirement system covers the employees of one or more of the state ***universities***[~~colleges~~] or of one or more of the public junior colleges or of any combination of[~~ such~~] state ***universities***[~~colleges~~] there shall be deemed to exist separate retirement systems with respect to each state ***university***[~~college~~] and each public junior college.

Section 5. KRS 61.440 is amended to read as follows:

Any instrumentality jointly created by this state and any other state or states is hereby authorized, to the extent that this Commonwealth may confer authority, (1) to enter into an agreement with the ***commissioner***[~~federal security administrator~~] whereby the benefits of the federal old-age***,***[~~ and~~] survivors***, disability, and hospital*** insurance system shall be extended to employees of ***the***[~~such~~] instrumentality, (2) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under subsection (1) of KRS 61.450 if they were covered by an agreement made pursuant to KRS 61.430, and (3) to make payments to the secretary of the treasury in accordance with ***the***[~~such~~] agreement, including payments from its own funds, and otherwise to comply with ***the***[~~such~~] agreement. ***The***[~~Such~~] agreement shall, to the extent practicable, be consistent with the terms and provisions of KRS 61.430, and all other terms and provisions, of KRS 61.410 to 61.500.

Section 6. KRS 61.460 is amended to read as follows:

(1) Each political subdivision of the state is hereby authorized to submit for approval by the state agency a plan for extending insurance coverage to employees of ***the***[~~such~~] political subdivision; ***except***[~~provided, however,~~] that no[~~ such~~] plan shall provide insurance coverage to an employee occupying a position to which KRS 161.220 to 161.710 are applicable except for employees of the state ***universities***[~~colleges~~] and public junior colleges. Each[~~ such~~] plan and any amendments thereof shall be approved by the state agency if it finds that ***the***[~~such~~] plan, or ***the***[~~such~~] plan as amended, is in conformity with[~~ such~~] requirements as are provided in ***administrative*** regulations of the state agency, except that no[~~ such~~] plan shall be approved unless:

(a) It is in conformity with the requirements of the Social Security Act and with the agreement entered into under KRS 61.430;

(b) It provides that all services which constitute employment and are performed in the employ of the political subdivision by employees thereof, shall be covered by the plan;

(c) It specifies the source or sources from which the funds necessary to make the payments required by paragraph (a) of subsection (3) and by subsection (4) of this section are expected to be derived and contains reasonable assurance that ***those***[~~such~~] sources will be adequate for ***that***[~~such~~] purpose;

(d) It provides for[~~ such~~] methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration thereof; ***and***

(e) It provides that the political subdivision will make[~~ such~~] reports, in ***the***[~~such~~] form and containing ***the***[~~such~~] information, as the state agency may from time to time require, and will comply with ***any***[~~such~~] provisions[~~ as~~] the state agency or the ***commissioner***[~~secretary~~] may from time to time find necessary to assure the correctness and verification of ***the***[~~such~~] reports[~~; and~~

~~(f) It authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and as may be consistent with the provisions of the Social Security Act~~].

(2) The state agency shall not finally refuse to approve a plan submitted by a political subdivision under subsection (1) of this section[~~, and shall not terminate an approved plan,~~] without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

(3) (a) Each political subdivision for which a plan has been approved under this section is authorized to and shall pay into the contribution fund, with respect to ***contributions due for*** wages ***paid prior to 1987***, at ***the***[~~such~~] time or times as the state agency may by ***administrative*** regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under KRS 61.430; and, furthermore, in anticipation of the due date of any payments of contributions required ***by this paragraph***[~~herein~~], is authorized to and shall make ***any***[~~such~~] advancements [~~as~~]the state agency, by ***administrative*** regulation or contract, may require.

(b) Each political subdivision is authorized to and shall make ***the***[~~such~~] payments as are determined by the state agency to be necessary for the purpose of defraying the expenses incurred by the state agency in administering KRS 61.410 to 61.500 for the benefit of those employees covered under any plan approved under subsection (1) of this section, but in no event shall such amount be greater than five percent (5%) of the contributions required under paragraph (a) of this subsection. ***The***[~~Such~~] payments shall be made into the State Treasury and shall be credited to a separate trust and agency fund to be used by the state agency solely for the purpose stated ***in this paragraph***[~~herein~~].

(c) Each political subdivision required to make payments under paragraph (a) of this subsection is authorized, in consideration of the employee's retention in, or entry upon, employment after the effective date of KRS 61.410 to 61.500, to impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to wages received for each calendar year, at the rate established by the Federal Insurance Contributions Act, as amended, and the Social Security Act, as amended. Contributions so collected ***for wages paid prior to 1987*** shall be paid into the contribution fund in partial discharge of the liability of ***the***[~~such~~] political subdivision under paragraph (a) of this subsection. Failure to deduct ***the***[~~such~~] contribution shall not relieve the employer of liability therefor.

(4) Delinquent payments due under paragraph (a) of subsection (3) of this section, with interest at the rate prescribed by Section 218 (j) of the Social Security Act, may be recovered by action in the Franklin Circuit Court against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to ***the***[~~such~~] subdivision by any department or agency of the state.

[~~(5) Each political subdivision may exclude sick leave with pay from wages if such payments are made under a plan or system approved by the state agency for Social Security. Any such plan or system shall conform to the Social Security Act and to any regulations promulgated thereunder.~~]

HB 640, AN ACT relating to the financing of water systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.118 is amended to read as follows:

(1) The cabinet, in conjunction with a county and its municipalities and public water systems, shall finance the development of the water supply plans and encourage multicounty cooperation. The county and its municipalities and public water

systems shall pay up to twenty percent (20%) of the total cost of plan development. A county and its municipalities and public water systems shall be given credit toward its share of the plan's cost for in-kind services performed.

(2) The financial assistance of the cabinet shall be available until July 15, 1996.

(3) After July 15, 1996, the full cost of water supply plan development will be the responsibility of any county and its municipalities and public water systems which has not had a plan approved by the cabinet.

(4) After July 15, ***1999***[~~1998~~], the cabinet shall not endorse projects that impact water under the Kentucky intergovernmental review process for any county and its municipalities and public water systems which does not have an approved water supply plan.

The Committee Substitute to **HB 640** is as follows:

AN ACT relating to the financing of water systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.118 is amended to read as follows:

(1) The cabinet, in conjunction with a county and its municipalities and public water systems, shall finance the development of the water supply plans and encourage multicounty cooperation. The county and its municipalities and public water systems shall pay up to twenty percent (20%) of the total cost of plan development. A county and its municipalities and public water systems shall be given credit toward its share of the plan's cost for in-kind services performed.

(2) The financial assistance of the cabinet shall be available until July 15, ***1999***[~~1996~~].

(3) After July 15, ***1999***[~~1996~~], the full cost of water supply plan development will be the responsibility of any county and its municipalities and public water systems which has not had a plan approved by the cabinet.

(4) After July 15, ***1999***[~~1998~~], the cabinet shall not endorse projects that impact water under the Kentucky intergovernmental review process for any county and its municipalities and public water systems which does not have an approved water supply plan.

HB 682, AN ACT relating to counties and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The Commission on County Consolidation is established to study the consolidation of counties in Kentucky. During the 1998-1999 interim, the Commission on County Consolidation shall take the following actions:

(1) Review the current population and area of each Kentucky county; its population growth or decline since 1900; the location and size of incorporated cities in each county; the location and types of governmental services in each county; the property tax base in each county; the local taxes and other local government charges levied in each county; the economy of each county, including agriculture, commerce, industry and governmental services, the employment commuting patterns of each county; and barriers to travel between counties.

(2) Chart the growth in the number of counties from the creation of the Commonwealth to the creation of McCreary County in 1912, to show which counties, at what time, were previously included in other counties.

(3) Develop a plan for the General Assembly to reduce, by January, 2020, through consolidation pursuant to Sections 63 and 64 of the Constitution, the number of counties in Kentucky to no more than seventy (70). The plan shall not require the elimination of the office of any popularly elected county official or school board member in office on the effective date of this Act, so long as that officer is continuously in office until 2020, or until the officer vacates his office, whichever shall occur first.

(4) Consider, in proposing the creation of larger counties, the population and tax base, the agricultural, commercial and industrial bases, and opportunities which will be created in each new county, and the location of central and satellite county government offices.

(5) Suggest a process by which each county to be created can determine the type and size of fiscal court it will have, the date when it will first elect local officials, and a method for applying existing county ordinances until the new fiscal court can adopt a code of ordinances.

(6) Suggest any changes in procedures for school district merger which might be deemed necessary.

(7) Suggest graduated levels of economic incentives which might be offered to counties to encourage voluntary consolidation, according to the plan to be adopted by the General Assembly, by January 2001, January 2005, January 2009, January 2013, January 2017, or January 2020.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The Commission on County Consolidation shall be composed of thirty-five (35) members, chosen in the following manner:

(1) Four (4) members of the General Assembly, two (2) to be appointed by the Speaker of the House of Representatives, and two (2) to be appointed by the President of the Senate;

(2) The secretary of the Cabinet for Economic Development or the secretary's designee;

(3) The Attorney General or the Attorney General's designee;

(4) Eight (8) elected county officials, six (6) of whom shall be appointed from a list of at least twelve (12) nominees submitted jointly by the Kentucky Association of Counties and the Kentucky Association of County Judges/Executive;

(5) Four (4) elected city officials, two (2) of whom shall be appointed from a list of at least four (4) nominees submitted by the Kentucky League of Cities;

(6) Two (2) judges of the Court of Justice from a list of at least three (3) nominees submitted by the Chief Justice of the Kentucky Supreme Court;

(7) One (1) person representing the area development districts submitted from a list of at least three (3) from the Kentucky Council of Area Development Districts;

(8) Two (2) members of the news profession, from a list of at least four (4) nominees submitted by the Kentucky Press Association;

(9) One (1) county attorney, from a list of at least three (3) nominees submitted by the Attorney General;

(10) One (1) county sheriff, from a list of at least three (3) nominees submitted by the Kentucky Sheriffs Association;

(11) One (1) county clerk, from a list of at least three (3) nominees submitted by the County Clerks Association;

(12) Four (4) members affiliated with the state universities from a list of at least eight (8) nominees submitted by the Council on Postsecondary Education;

(13) One (1) member from a list of at least three (3) nominees submitted by the Kentucky Chamber of Commerce;

(14) One (1) member from a list of at least three (3) nominees submitted by the Kentucky Association of School Superintendents; and

(15) Three (3) citizens, one of whom is selected from a county with a population of less than ten thousand (10,000) citizens, one of whom is selected from a county with a population between ten thousand (10,000) and twenty thousand (20,000) citizens, and one of whom is selected from a county with a population greater than twenty thousand (20,000).

The Governor shall appoint the members to the commission from the selections in subsections (2) through (15) of this section on or before August 1, 1998.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) The President of the Senate and the Speaker of the House shall each designate a co-chair for the Commission on County Consolidation.

(2) The members of the commission shall serve for two (2) year terms which the General Assembly may renew at succeeding regular sessions. Vacancies in the commission shall be filled by appointment in the same manner as the original appointments.

(3) Nonlegislative members shall serve without pay, but shall be reimbursed for their reasonable and necessary expenses in connection with the performance of their duties, to be paid out of the sum appropriated to the commission. Legislative members of the commission shall receive their usual per diem as indicated in KRS 7.110(5) for the attendance of meetings, including reimbursement for their reasonable and necessary expenses in connection with the performance of their duties.

(4) The full commission shall meet twice annually and at other times as it deems necessary. The commission may hold public hearings from time to time on matters within its purview. Whenever appropriate, the commission shall organize itself into task groups related to the subject matter under consideration and they may meet at times they deem necessary.

(5) The commission shall provide a preliminary report with recommendations on the process of consolidating counties to the Legislative Research Commission and the Governor by September 1, 1999. It is intended that the General Assembly review the report, enact any legislation deemed necessary on the basis of the report, and renew the commission from session to session until the final report is adopted and a plan for the consolidation of counties is enacted.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The Commission on County Consolidation shall be attached to the Department of Local Government for administrative purposes. The commission, in consultation with the commissioner of the Department of Local Government, shall employ an *executive director. The director, with the approval of the chairs of the commission and the commissioner of the Department of Local Government, may employ those persons or may contract for those services necessary for the effective performance of the commission's work. The director may accept the voluntary services of any interested citizens who shall serve without pay, but these citizens shall receive their reasonable and necessary expenses to be paid out of the sum appropriated to the commission.*

Section 5. There is appropriated to the Commission on County Consolidation, out of the general fund in the State Treasury the sum of one hundred ten thousand dollars ($110,000) for fiscal year 1997-98, and one hundred ten thousand dollars ($110,000) for fiscal year 1998-1999.

HB 708, AN ACT relating to the use of information technology.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 369 IS HEREBY ESTABLISHED AND A NEW SECTION CREATED TO READ AS FOLLOWS:

Sections 1 to 3 of this Act shall be construed consistent with what is commercially reasonable under the circumstances and to effectuate the following purposes:

(1) To facilitate and promote on-line state government services;

(2) To facilitate the flow of authorized electronic records within state government, between the public and private sectors, and between private sector entities; and

(3) To promote public confidence in the integrity and reliability of electronic records.

SECTION 2. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 1 to 3 of this Act, unless the context expressly requires otherwise:

(1) "Electronic" means relating to or by means of electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies;

(2) "Electronic record" means any digital representation of data or information generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another;

(3) "Electronic signature" means an electronic identifier whose use is intended by the person using it to have the same force and effect as the use of a manual signature and containing the following characteristics:

(a) It is unique to the person using it;

(b) It is capable of verification; and

(c) It is under the sole control of the person using it; and

(4) "Record" means information that is inscribed, stored, or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

SECTION 3. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 3 of this Act do not apply to:

(a) Any situation in which their application would be inconsistent with the express intent of the parties to a written document;

(b) Any legal requirement governing the creation or execution of any document that serves to convey rights and obligations under a will or trust;

(c) Any legal requirement governing the conveyance of any interest in real property;

(d) Any legal requirement governing the creation or transfer of any negotiable instrument or any instrument establishing title or an interest in title.

(2) Nothing in Sections 1 to 3 of this Act shall be construed to:

(a) Require a recipient or any other person asked to rely on an electronic record or an electronic signature to accept the electronic record or electronic signature or to respond to or act upon an electronic record or electronic signature, unless the parties have freely and voluntarily agreed to the use of an electronic record or electronic signature prior to transmission;

(b) Preclude the recipient of an electronic record or an electronic signature from establishing the conditions under which the recipient will accept the electronic record or electronic signature, unless the parties have freely and voluntarily agreed to the conditions under which the recipient would accept the electronic record or electronic signature prior to transmission; or

(c) Require a state or local governmental entity or agency to accept an electronic record or electronic signature, unless the entity or agency has agreed to accept the electronic record or electronic signature in advance of transmission and the manner and medium of transmission is acceptable to the entity or agency.

(3) If all parties to a private sector transaction agree to the use of an electronic record or an electronic signature, or, in dealings with a state or local governmental entity or agency, if that entity or agency agrees to accept an electronic record or an electronic signature:

(a) Information, records, and electronic signatures shall not be denied legal effect, validity, or enforceability solely on the grounds that they are in electronic, duplicate, or imaged form.

(b) Where a statute or administrative regulation requires a manual signature, or provides for certain consequences if a document is not manually signed, an electronic signature shall have the same force and effect as the use of a manual signature.

(c) Where a statute or administrative regulation requires information to be "written," or "in writing," or provides for certain consequences if it is not, that statute or administrative regulation shall be satisfied by an electronic record.

(d) Where a statute or administrative regulation requires information to be presented or retained in its original form, or provides consequences for the information not being presented or retained in its original form, that statute or administrative regulation shall be satisfied by an electronic record if there exists reliable assurance as to the integrity of the data or the information from the time when it was first generated to its final form, as an electronic record or otherwise.

Section 4. KRS 61.950 is amended to read as follows:

(1) The commission shall meet at least four (4) times each year and report its findings no less than semiannually to the Legislative Research Commission and the Governor. All reports of the commission shall be made available to the general public. In addition, the commission, upon the call of its officers, may hold meetings at any time it deems necessary.

(2) The commission's roles and duties shall include the following:

(a) Providing overall leadership, policy direction, strategic planning, and coordination of information resources management for the executive branch of state government and public universities;

(b) Formulation of a five (5) year statewide information resources management plan, to be updated every two (2) years, from long-range information resources management plans submitted by agencies of the executive branch, including the public universities, as the commission may require;

(c) Defining, maintaining, and publishing a timely information resources management architecture relating to the management of information resources by executive branch state agencies, and implementing processes and procedures to ensure compliance with the information resources management architecture;

(d) Coordinating, through policy and interagency agreements and monitoring, an appropriate program of training and education for executive branch state and local agencies regarding strategic information systems planning, and the selection and use of information technologies to facilitate effective information resources management, appropriate employee skill building, and career development;

(e) Promoting executive level awareness, support, and involvement with information resources management throughout the executive branch of government;

(f) Reviewing and approving or disapproving, in whole or part, executive branch agency five (5) year strategic information resources plans, and forwarding those plans with findings and recommendations to the agency head, the Governor's Office for Policy and Management, and the Legislative Research Commission for use during the preparation and enactment of the biennial budget. Commission review shall be based upon the extent to which the plan is compliant with statewide information resources standards, policies and guidelines; is suited to supporting the mission of the agency; and furthers implementation of statewide initiatives identified in the statewide plan. As part of the review process, the commission shall monitor and evaluate the progress of the current plan and the executive branch agency's use of information technologies and shall include its assessment of these activities in the findings and recommendations;

(g) Identifying and assessing opportunities for multiagency development and use of information resources, or the development of executive branch agency projects which would improve the quality and availability of information. When identifying these opportunities the commission may require executive branch agencies to evaluate the opportunities as alternatives to their own plans, and may forward these findings as provided in paragraph (f) of this subsection;

(h) Maintaining supportive relationship and coordinating activities with the adjunct Communications Advisory Council provided for in KRS 61.955 and 61.957, and the Geographic Information Advisory Council established by Executive Order 92-1049, October 1, 1992, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, information technology;

(i) Establishing and maintaining relationships with other planning organizations as necessary to ensure coordination and implementation of comprehensive statewide strategies involved with, or affected by, information technology;

(j) Reviewing and recommending to the Department of Personnel and other associated agencies appropriate job classifications related to information resources management, to include both technical and managerial positions;

(k) Establishing and maintaining an information dissemination service or clearinghouse for:

  1. Current practices of state agencies regarding information resources management;
  2. Emerging and advancing information resources technologies;
  3. Information resources vendor performance in the public sector;
  4. Technical resources in the Commonwealth; and
  5. Elements of the information resources management architecture;

(l) Establishing and maintaining research and development capacity for beneficial applications of information resources technology for the state's public sector, which includes:

  1. Conducting research on current and emerging information resources technologies and their potential to enhance governmental services; and
  2. Sponsoring and evaluating pilot projects to assist with the successful adoption by other state agencies;

(m) Fostering and encouraging the interest and cooperation of the state information resources technology community for improvement and enhancement of public services delivery;

(n) Serving as catalyst for information technology advancements in the public sector;

(o) Recommending procedures and legislation to improve the accessibility of machine readable public records by state agencies, citizens, and businesses; and

(p) Recommending procedures and legislation to ensure the privacy of individuals, with particular emphasis on the potential for invasion of individual privacy.

(3) Nothing in KRS 61.940, 61.945, or this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

(4) The commission may promulgate necessary administrative regulations for the furtherance of this section***, including administrative regulations establishing electronic signature standards for the executive branch of state government***.

(5) The commission may establish committees or work groups composed of commission and noncommission members as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Persons connected with the automated information and communications resources industries, as specified in KRS 61.945, may participate on committees or work groups, but shall not have a vote.

(6) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.

HCR 82, A CONCURRENT RESOLUTION directing a study of limiting bill requests or introductions.

WHEREAS, the Kentucky General Assembly's regular sessions are limited to sixty days every two years; and

WHEREAS, it is crucial to conserve legislative time for substantive policy proposals; and

WHEREAS, twenty-one state legislative chambers currently impose limits on members' bill requests or bill introductions; and

WHEREAS, respondents to a National Conference of State Legislatures' survey indicate that introduction limits have generally been successful in reducing the number of bills entering the legislative process; and

WHEREAS, it appears that a bill request or bill introduction deadline might streamline the legislative process and reduce staff, bill processing, and paper costs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on State Government shall conduct a study of the feasibility and advisability of establishing a limit on the number of bills members of the General Assembly may request or may introduce in a legislative session. The study shall include an examination of the experiences of other states with bill request or bill introduction limitations. The Committee shall report its findings and recommendations to the Legislative Research Commission prior to the 1999 Organizational Session of the General Assembly.

Section 2. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

SB 161, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Commission on Human Services Collaboration is hereby created and is attached to the Cabinet for Human Resources for administrative purposes. The commission shall develop, adopt, and amend, as appropriate, a service coordination plan to promote health, education, and social services partnerships of public and private agencies. The commission shall coordinate, evaluate, and provide technical assistance in implementing the service coordination plan.

(2) The commission shall coordinate and facilitate development of community partnership strategic plans, which are designed to implement the service coordination plan.

(3) The commission shall coordinate and facilitate development of outcomes to be achieved by community partnerships as outlined in the service coordination plan and report on progress toward achieving results.

(4) The commission shall also work to increase the efficiency and effectiveness of services to individuals, families and children through the identification and elimination of duplicative boards and commissions, which exercise overlapping responsibilities, and the identification of gaps in and barriers to the provision and receipt of human services. The commission shall provide technical assistance to communities.

(5) The commission shall report to the Legislative Research Commission and the General Assembly by October 1 of each year on the following:

(a) The coordination plan;

(b) The community partnership strategic plans;

(c) The increase in the efficiency and effectiveness of services;

(d) The boards and commissions eliminated;

(e) The boards and commissions identified as duplicative; and

(f) The identified gaps and barriers to provision and receipt of human services.

(6) The commission shall consist of the following members:

(a) The Governor's designee;

(b) The secretary of the Cabinet for Human Resources;

(c) The secretary of the Cabinet of Economic Development;

(d) The secretary of the Justice Cabinet;

(e) The secretary of Arts, Education and Humanities;

(f) The secretary of the Tourism Cabinet;

(g) The secretary of the Workforce Development Cabinet;

(h) The commissioner of education;

(i) The commissioner of juvenile justice;

(j) The director of the Administrative Office of the Courts;

(k) Seven (7) gubernatorial appointees, representing business, community leaders, and consumers; and

(l) The chair for the Council on State and Local Collaboratives.

(7) Members who hold state government positions shall serve by virtue of their offices. The remaining initial members of the commission shall be designated by the Governor to serve for a term ranging from one (1) to four (4) years. Subsequent appointments to the commission shall be for four (4) year terms and limited to two (2) consecutive four (4) year terms.

(8) The Governor shall designate a member of the public appointed to the commission to serve as chair of the commission for a term of two (2) years. Thereafter, a chair shall be selected by the members of the commission from the members of the public appointed by the commission. The chair shall serve for a period of two (2) years.

(9) The chair of the commission, following consultation with the cabinet secretaries and upon agreement of the commission, may designate work groups to make recommendations to the commission regarding parental and community involvement and its mission.

(10) Staff assistance shall be provided to the commission through the cooperative efforts of the members of the

commission serving in the executive cabinet. Primary staff assistance shall be the responsibility of the Cabinet for Human Resources.

(11) Members of the commission shall be eligible to receive travel expenses while attending meetings of the commission in accordance with state travel regulations. Members of committees appointed by the commission shall be eligible for reimbursement of travel expenses incurred while attending committee or commission meetings in accordance with state travel regulations.

(12) The commission shall cease to exist two (2) years after the effective date of this Act unless otherwise reauthorized by the General Assembly.

Section 2. (1) If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources appearing in subsections (1) and (10) of Section 1 of this Act shall be codified as the Cabinet for Families and Children.

(2) If the reorganization of the Cabinet for Human resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources appearing in subsection (6) of Section 1 of this Act shall be codified as the Cabinet for Families and Children and the Cabinet for Health Services. There shall be representation on the commission of the secretaries of both the newly established cabinets.

Section 3. The General Assembly confirms both Executive Order 96-954, dated July 18, 1996, which creates a Kentucky Commission on Human Services Collaboration, and Executive Order 97-96, dated January 23, 1997, which adds another member to the commission, to the extent they are not otherwise confirmed or superseded by this Act.

SB 165, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.010 is amended to read as follows:

The Department of Military Affairs shall be attached to the Office of the Governor, have charge of and be responsible to the Governor for the proper functioning of the Kentucky National Guard, militia, and all other military or naval matters of the state, and shall consist of the following ***offices and*** divisions:

(1) ***Office of Management and Administration, containing the:***

  (a) Division of Administrative Services;

  (b) Division of Facilities;

  (c) Bluegrass Station Division; and

  (d) Division of Air Transport~~[Administrative divisions]~~;

(2) ***Division of Disaster and Emergency Services***~~[Facilities division]~~;

(3) ***Office of the Chief of Staff for Federal Army Guard***~~[Active militia division]~~;

(4) ***Office of the Chief of Staff for Federal Air Guard; and***~~[Army National Guard division;]~~

(5)~~[Air National Guard division;~~

~~(6)~~] Kentucky Civil Air Patrol~~[; and~~

~~(7) Division of air transport and capital city airport]~~.

In order to promote greater efficiency, economy, and improved administration, the divisional structure of the Department of Military Affairs may be changed, redesignated, or reorganized in accordance with KRS Chapter 12. Notwithstanding KRS Chapter 12, the department's attachment to the Office of Governor as a separate organizational unit not attached to any cabinet shall not be changed except by action of the General Assembly.

Section 2. (1) To the extent that it is not otherwise confirmed by subsection (1) of Section 1 of this Act, the General Assembly confirms Executive Order 96-838, dated June 27, 1996, which creates the Office of Management and Administration within the Department of Military Affairs; creates and places the Bluegrass Station Division within the Office of Management and Administration; and places the following existing divisions within the Office of Management and Administration: the Division of Administrative Services, the Division of Facilities, and the Division of Air Transport. The Office of Management and Administration shall provide policy, management, and administrative support to all areas of the Department of Military Affairs. The Bluegrass Station Division shall manage, maintain, and lease the former Lexington Bluegrass Army Depot.

(2) The General Assembly confirms the remaining organizational structure of the Department of Military Affairs as set forth in subsections (2) to (5) of Section 1 of this Act.

The Committee on Education reported **HB 113**, with Committee Substitute attached thereto, **HB 447**, **HB 469**, with Committee Substitute attached thereto, **HB 511**,with Committee Substitute attached thereto, **HB 535**, **HB 714**, with Committee Substitute attached thereto, **SB 5**, and **SB 202** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 113, AN ACT relating to compulsory school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.010 is amended to read as follows:

(1) Except as provided in KRS 159.030 ***and in the case of hardship exemptions defined by an administrative regulation promulgated by the Kentucky Board of Education***, each parent, guardian, or other person residing in the state and having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and ***eighteen (18)***[~~sixteen (16)~~] shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session, or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and ***eighteen (18)***[~~sixteen (16)~~] when the child has reached his sixth birthday and has not passed his ***eighteenth***[~~sixteenth~~] birthday.

(2) [~~An unmarried child between the ages of sixteen (16) and eighteen (18) who wishes to terminate his public or nonpublic education prior to graduating from high school shall do so only after a conference with the principal or his designee, and the principal shall request a conference with the parent, guardian, or other custodian. Written notification of withdrawal must be received from his parent, guardian, or other person residing in the state and having custody or charge of him sixty (60) days prior to withdrawal. The written notification shall be dated and the signature witnessed by the principal of the school or his designee, where the child is in attendance. During the sixty (60) day period, the parent(s) and child shall be required to attend a one (1) hour counseling session where they shall view a media presentation prepared by the Department of Education which shows economic statistics and other information on potential problems of nongraduates.~~

~~(3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday.~~]Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.

[~~(4) The commissioner of education shall make a recommendation to the 1992 Regular Session of the General Assembly on raising the compulsory school age to eighteen (18) years of age for students who have not earned a diploma.~~]

Section 2. KRS 159.020 is amended to read as follows:

Any parent, guardian, or other person having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and ***eighteen (18)***[~~sixteen (16)~~] who removes the child from a school district during the school term shall enroll the child in a regular public day school in the district to which the child is moved, and the child shall attend school in the district to which he is moved for the full term provided by that district.

Section 3. This Act takes effect July 1, 1999.

The Committee Substitute to **HB 113** is as follows:

AN ACT relating to compulsory school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.010 is amended to read as follows:

(1) Except as provided in KRS 159.030 ***and in the case of hardship exemptions defined by an administrative regulation promulgated by the Kentucky Board of Education***, each parent, guardian, or other person residing in the state and having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and ***eighteen (18)***[~~sixteen (16)~~] shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session, or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and ***eighteen (18)***[~~sixteen (16)~~] when the child has reached his sixth birthday and has not passed his ***eighteenth***[~~sixteenth~~] birthday.

(2) ***Any student in a secondary school up to eighteen (18) years of age who creates continuous disruption in a regular classroom, has been suspended, or is determined to need alternative classroom placement, shall be placed in an alternative education program.***

(3) The pupil personnel director or a designee shall hold a conference with any student who is eighteen (18) years of age, has not completed high school, and is withdrawing from school. The interview shall be for the purposes of collecting data as to the reason the student is withdrawing from school and for determining what intervention strategies should be provided students to enable them to be successful[~~An unmarried child between the ages of sixteen~~

~~(16) and eighteen (18) who wishes to terminate his public or nonpublic education prior to graduating from high school shall do so only after a conference with the principal or his designee, and the principal shall request a conference with the parent, guardian, or other custodian. Written notification of withdrawal must be received from his parent, guardian, or other person residing in the state and having custody or charge of him sixty (60) days prior to withdrawal. The written notification shall be dated and the signature witnessed by the principal of the school or his designee, where the child is in attendance. During the sixty (60) day period, the parent(s) and child shall be required to attend a one (1) hour counseling session where they shall view a media presentation prepared by the Department of Education which shows economic statistics and other information on potential problems of nongraduates.~~

~~(3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday~~].

(4) Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.

[~~(4) The commissioner of education shall make a recommendation to the 1992 Regular Session of the General Assembly on raising the compulsory school age to eighteen (18) years of age for students who have not earned a diploma.~~]

Section 2. KRS 159.020 is amended to read as follows:

Any parent, guardian, or other person having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and ***eighteen (18)***[~~sixteen (16)~~] who removes the child from a school district during the school term shall enroll the child in a regular public day school in the district to which the child is moved, and the child shall attend school in the district to which he is moved for the full term provided by that district.

Section 3. This Act takes effect July 1, 1999.

HB 447, AN ACT relating to the education of state agency children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.135 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "State agency children" means:

1. ***a.*** Those children of school age committed to or in custody of the Cabinet for Human Resources and placed, or financed by the cabinet, in a Cabinet for Human Resources operated or contracted institution, treatment center, facility, ***including those for therapeutic foster care and excluding those for nontherapeutic foster care;*** or

b. ***Those children*** placed or financed by the Cabinet for Human Resources in a private facility pursuant to child care agreements ***including those for therapeutic foster care and excluding***[~~other than~~] those for ***nontherapeutic*** foster care;

2. Those children of school age in home and community-based services provided as an alternative to intermediate care facility services for the mentally retarded; and

3. Those children committed to or in custody of the Department of Juvenile Justice, except for children placed in a juvenile detention facility or jail as defined in KRS 15A.067.

(b) "Current costs and expenses" means all expenditures, other than for capital outlay and debt service, which are in excess of the amount generated by state agency children under the Support Education Excellence in Kentucky funding formula pursuant to KRS 157.360. These expenditures are necessary to provide a two hundred thirty (230) day school year, smaller teacher pupil ratio, related services if identified on an individual educational plan, and more intensive educational programming.

(c) "Therapeutic foster care" means a remedial care program for troubled children and youth that is in the least restrictive environment where the foster parent is trained to implement planned, remedial supervision and care leading to positive changes in the child's behavior. Children served in this placement have serious emotional problems and meet one (1) or more of the following criteria:

1. Imminent release from a treatment facility;

2. Aggressive or destructive behavior;

3. At risk of being placed in more restrictive settings, including institutionalization; or

4. Numerous placement failures.

(2) ***(a)*** Unless otherwise provided by the General Assembly in a budget bill, any county or independent school district

that provides elementary or secondary school services to state agency children shall be reimbursed through a contract with the Kentucky Educational Collaborative for State Agency Children. The school services furnished to state agency children shall be equal to those furnished to other school children of the district.

(b) The Department of Education shall set aside an amount of the state agency children funds designated by the General Assembly in the biennial budget to reimburse a school district for its expenditures exceeding twenty percent (20%) of the total amount received from state and federal sources to serve a state agency child.

(3) ***The General Assembly shall increase funding for the education programs for state agency children by a percentage increase equal to that provided in the biennial budget for the base funding level for each pupil in the program to support education excellence in Kentucky under KRS 157.360 and, if applicable, by an amount necessary to address increases in the number of state agency children being served.***

(4) The Kentucky Educational Collaborative for State Agency Children shall make to the chief state school officer the reports required concerning school services for state agency children, and shall file with the Cabinet for Human Resources unit operating or regulating the institution or day treatment center, or contracting for services, in which the children are located a copy of the annual report made to the chief state school officer.

(5)~~[(4)]~~ The Cabinet for Human Resources shall contract with a university-affiliated training resource center utilizing all funds generated by the children in state agency programs, except Oakwood and Hazelwood funds, and the funds in the Kentucky Department of Education budget, pursuant to this section, as well as any other educational funds for which all Kentucky children are entitled. The total of these funds shall be utilized to provide educational services through the Kentucky Educational Collaborative for State Agency Children established in KRS 605.110.

(6)~~[(5)]~~ Notwithstanding the provisions of any other statute, the Kentucky Educational Collaborative for State Agency Children shall operate a two hundred thirty (230) day school program.

Section 2. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Human Resources Residential, Day Treatment, Clinical, and Group Home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Human Resources and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Human Resources, Department for Social Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children. ***The biennial plan shall include strategies to assure that teacher preparation programs include content related to working with state agency children and that adequate professional development opportunities for better meeting the needs of these students are available for teachers and schools.***

(b) Teachers and other staff shall be hired on contract through a local school district or if the local school district is not willing to participate, teachers shall be hired by the Kentucky Educational Cooperative for State Agency Children. All certified educational staff of the Kentucky Educational Cooperative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;

2. A per pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children pursuant to KRS 156.0951;

3. A per pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;

4. A per pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;

5. The funding for school services for state agency children authorized by KRS 158.135; and

6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (e) of this subsection for the education of Kentucky's children.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Human Resources shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:

a. Define the financial responsibility of each state and local agency for providing services to state agency children;

b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and

2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Human Resources.

(e) The commissioner of Juvenile Justice and the secretary of the Cabinet for Human Resources and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

HB 469, AN ACT relating to teachers' salaries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.420 is amended to read as follows:

Public school funds made available to the credit of each district during any year shall be received, held, and expended by the district board, subject to the provisions of law and administrative regulations of the Kentucky Board of Education. The following restrictions shall govern the expenditure of funds from the public school fund:

(1) The teachers' salaries allotment for each district from the public school fund and from local sources shall be used only for teachers holding properly authorized certificates. The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year or the allotment under KRS 157.390(3) shall be reduced by an amount equal to the amount by which the district failed to meet the salary requirements.

(2) The Kentucky Board of Education shall not approve any working budget or salary schedule summary for local boards of education for any school year ***unless***[~~in which~~] the total amount for one hundred eighty-five (185) days on the salary schedule summary for salaries paid from the base funding is[~~ not~~] equal to ***or exceeds***[~~:~~

~~(a)~~] the amount for one hundred eighty-five (185) days on the district's salary schedule summary for instructional salaries paid with state funds the preceding year ***adjusted by the lesser of:***

(a) The percent increase in the average annual Consumer Price Index for all urban consumers between the two (2) most recent calendar years, as published by the United States Bureau of Labor Statistics; or

(b) The percent increase of the base funding level in the program for Support of Education Excellence in Kentucky as defined in KRS 157.320[~~; plus~~

~~(b) The additional amount for instructional salaries to be received by the district under the biennial budget schedule for a one hundred eighty-five (185) day school term by assuming the same rank and experience of teachers in the current year as in the preceding year~~].

(3) A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS

161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year to be determined according to the number of staff employed by the district on September 15. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.

(4) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the chief state school officer in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the Kentucky Board of Education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from over-expenditure for capital construction, if such deficit resulted from an emergency declared by the Kentucky Board of Education under KRS 160.550; and

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.

(5) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the chief state school officer under administrative regulations of the Kentucky Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds.

(6) If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection (4) of this section, upon approval of the chief state school officer, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.

(7) In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.

(a) "Permanent center" means a center which meets the program standards approved by the Kentucky Board of Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.

(b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.

(c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.

(8) If a local school board authorized elementary, middle, or secondary education classes in a facility of a historical settlement school on January 1, 1994, the board shall continue to use the facilities provided by the settlement school if the facilities meet health and safety standards for education facilities as required by administrative regulations. The local school board and the governing body of the settlement school shall enter into a cooperative agreement that delineates the role, responsibilities, and financial obligations for each party.

The Committee Substitute to **HB 469** is as follows:

AN ACT relating to teachers' salaries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.420 is amended to read as follows:

Public school funds made available to the credit of each district during any year shall be received, held, and expended by the district board, subject to the provisions of law and administrative regulations of the Kentucky Board of Education. The following restrictions shall govern the expenditure of funds from the public school fund:

(1) [~~The teachers' salaries allotment for each district from the public school fund and from local sources shall be used only for teachers holding properly authorized certificates.~~]The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year[~~ or the allotment under KRS 157.390(3) shall be reduced by an amount equal to the amount by which the district failed to meet the salary requirements~~].

(2) The Kentucky Board of Education shall not approve any working budget or salary schedule[~~ summary~~] for local boards of education for any school year ***unless the***[~~in which the total amount for~~] one hundred eighty-five (185) ***day***[~~days on the~~] salary schedule ***for certified staff has been adjusted over the previous year's salary schedule***[~~summary for salaries paid from the base funding is not equal to:~~

~~(a) the amount for one hundred eighty five (185) days on the district's salary schedule summary for instructional salaries paid with state funds the preceding year~~] ***by the lesser of:***

(a) The percent increase in the average annual Consumer Price Index for all urban consumers between the two (2) most recent calendar years, as published by the United States Bureau of Labor Statistics and stated in the statutory budget memorandum and the biennial budget report; or

(b) The percent increase of the base funding level in the program for support education excellence in Kentucky as defined in KRS 157.320[~~; plus~~

~~(b) The additional amount for instructional salaries to be received by the district under the biennial budget schedule for a one hundred eighty five (185) day school term by assuming the same rank and experience of teachers in the current year as in the preceding year~~].

(3) A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS 161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year to be determined according to the number of staff employed by the district on September 15. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.

(4) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the chief state school officer in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the Kentucky Board of Education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from over-expenditure for capital construction, if such deficit resulted from an emergency declared by the Kentucky Board of Education under KRS 160.550; and

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.

(5) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the chief state school officer under administrative regulations of the Kentucky Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds.

(6) If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection (4) of this section, upon approval of the chief state school officer, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.

(7) In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.

(a) "Permanent center" means a center which meets the program standards approved by the Kentucky Board of Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.

(b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.

(c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.

(8) If a local school board authorized elementary, middle, or secondary education classes in a facility of a historical settlement school on January 1, 1994, the board shall continue to use the facilities provided by the settlement school if the facilities meet health and safety standards for education facilities as required by administrative regulations. The local school board and the governing body of the settlement school shall enter into a cooperative agreement that delineates the role, responsibilities, and financial obligations for each party.

HB 511, AN ACT relating to the board of directors for a community college.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.600 is amended to read as follows:

(1) ***As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.***

(2) There shall be a board of directors for each community college under the Kentucky Community and Technical College System, except as provided in KRS 165.160. Each board of directors shall:

(a) Recommend one (1) candidate for the community college president from three (3) candidates provided by the president of the Kentucky Community and Technical College System. The president shall have the authority to make the final appointment and shall not be bound by the recommendation from the board of directors;

(b) Evaluate the community college president and advise the chancellor of his or her performance. The president has final authority for the appointment and termination of the community college president;

(c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;

(d) Adopt and amend an annual operating budget and submit it to the board of regents of the Kentucky Community and Technical College System for approval as to the compliance with its guidelines;

(e) Approve and implement a strategic plan that is developed in coordination with local employers, civic leaders, campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the General Assembly.

(3)[~~(2)~~] The president of each community college shall have full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under KRS 164.350.

(4)[~~(3)~~] Each board of directors shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The other two (2) board members shall be one (1) member of the teaching faculty and one (1) member of the student body. An appointed member's term shall be six (6) years.

(5)[~~(4)~~] The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(6)[~~(5)~~] The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(7)[~~(6)~~] The members of the board of directors shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

(8)[~~(7)~~] ***No citizen member of the board of directors shall be a relative of any employee of the community college under its jurisdiction. A person who is a member of the board at the effective date of this Act who is a relative of an employee of the community college may finish out the appointed term of office but the member may not be reappointed.***

(9) The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.

The Committee Substitute to **HB 511** is as follows:

AN ACT relating to the board of directors for a community college.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.600 is amended to read as follows:

(1) ***As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.***

(2) There shall be a board of directors for each community college under the Kentucky Community and Technical College System, except as provided in KRS 165.160. Each board of directors shall:

(a) Recommend one (1) candidate for the community college president from three (3) candidates provided by the president of the Kentucky Community and Technical College System. The president shall have the authority to make the final appointment and shall not be bound by the recommendation from the board of directors;

(b) Evaluate the community college president and advise the chancellor of his or her performance. The president has final authority for the appointment and termination of the community college president;

(c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;

(d) Adopt and amend an annual operating budget and submit it to the board of regents of the Kentucky Community and Technical College System for approval as to the compliance with its guidelines;

(e) Approve and implement a strategic plan that is developed in coordination with local employers, civic leaders, campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the General Assembly.

(3)[~~(2)~~] The president of each community college shall have full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under KRS 164.350.

(4)[~~(3)~~] Each board of directors shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The other two (2) board members shall be one (1) member of the teaching faculty and one (1) member of the student body. An appointed member's term shall be six (6) years.

(5)[~~(4)~~] The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(6)[~~(5)~~] The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(7)[~~(6)~~] The members of the board of directors shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

(8)[~~(7)~~] ***No citizen member of the board of directors shall be a relative of any employee of the community college under its jurisdiction. A person who is a member of the board at the effective date of this Act who is a relative of an employee of the community college who has been employed by the community college less than three (3) years, may finish out the appointed term of office but the member may not be reappointed. A person who is a relative of an employee of the community college who has been employed by the community college for three (3) or more years may be appointed or reappointed to serve on the board of directors.***

(9) The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.

HB 535, AN ACT relating to school-based decision making.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in Section 5 of this Act, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The parent representatives on the council shall not be employees of the school or the district central office or relatives of an employee of the school or relatives of a district central office employee, nor shall they be local board members or their spouses. None of the members shall have a conflict of interest under KRS Chapter 45A, except the salary paid to district employees.

(2) The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years. The chair of the council shall be elected by the school council members from the council's membership.

(3) School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under subsection (1) of this section does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

(a) Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

(b) Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making.

(2) School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making.

(3) School council training required under this section shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve.

(4) School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(5) Members of a council that has a primary program under its jurisdiction shall be instructed in the options for implementing the primary program.

SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451.

(2) The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

(3) The school council shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.

(4) The school council and each of its committees shall determine the frequency of and agenda for their meetings.

(5) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(6) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job

classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed, but shall not have the authority to recommend transfers or dismissals.

(7) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(8) The school council shall adopt a policy to be implemented by the principal in the following:

(a) Determination of curriculum, including needs assessment and curriculum development;

(b) Assignment of all instructional and noninstructional staff time;

(c) Assignment of students to classes and programs within the school;

(d) Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;

(e) Determination of use of school space during the school day;

(f) Planning and resolution of issues regarding instructional practices;

(g) Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal;

(h) Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;

(i) Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and

(j) Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references.

SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect.

(2) If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent.

(3) The superintendent shall provide additional applicants upon request by the principal for personnel under subsection (1) of this section or upon request by the school council under subsection (2) of this section, when additional applicants are available who meet the qualifications of the position advertisement.

(4) Personnel decisions made at the school level under the authority of this section shall be binding on the superintendent who completes the hiring process.

SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education in accordance with KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption.

(a) The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose.

(b) After July 13, 1998, no school shall be exempt from having a school council unless both the parent vote and the faculty vote have been reported to the Kentucky Board of Education.

(c) A newly created school, using the same procedures as described in this section, may request an exemption from the requirement to implement school-based decision making until sufficient time has elapsed to establish a performance threshold and to determine how the school is performing. If the school performs above its threshold level requirement as determined by the Department of Education in accordance with KRS 158.6455, it may continue the exemption.

(d) Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(2) A school that chooses to have school-based decision making, but would like to be exempt from the administrative structure set forth in Sections (1) and (3) of this Act, may develop a model for implementing school-based decision

making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

Section 6. KRS 156.101 is amended to read as follows:

(1) The purpose of this section is to encourage and require the maintenance and development of effective instructional leadership in the public schools of the Commonwealth and to recognize that principals with the assistance of assistant principals, supervisors of instruction, guidance counselors, and directors of special education have the primary responsibility for instructional leadership in the schools to which they are assigned.

(2) For the purpose of this section, instructional leader shall be defined as an employee of the public schools of the Commonwealth holding a valid certificate as a principal, assistant principal, supervisor of instruction, guidance counselor, or director of special education.

(3) In order to carry out the purpose of this section, the Kentucky Board of Education shall establish a statewide program to improve and maintain the quality and effectiveness of instructional leadership in the public schools of the Commonwealth.

(4) The instructional leader improvement program shall contain the following provisions:

(a) Each instructional leader employed by the public schools of the Commonwealth shall participate in a continuing intensive training program designed especially for instructional leaders;

(b) Every two (2) years each instructional leader shall complete an intensive training program approved by the Kentucky Board of Education to include no less than forty-two (42) participant hours of instruction;

(c) The Kentucky Board of Education shall prescribe specific criteria for the training program and may contract for the training with qualified agencies or institutions; and

(d) Completion of the required participant hours shall be reported to the State Department of Education and to the local school district. If an instructional leader fails to complete the required hours of training, he shall be placed on probation for one (1) year and, if the training is not completed during the probationary period, his certificate shall be revoked.

(5) As a means of improving the educational productivity of Kentucky's public schools, of providing a method by which the citizens of the Commonwealth can be assured of measures of accountability of the performance of certified school employees, and of providing encouragement and incentives for certified school employees to improve their performance, the Kentucky Board of Education shall establish a statewide program for improving the performance of all certified school personnel, including instructional leaders.

(6) The certified employee evaluation programs shall contain the following provisions:

(a) Each certified school employee, including the superintendent, shall be evaluated by a system developed by the local school district and approved by the Kentucky Board of Education;

(b) ***The evaluation of a principal by the superintendent shall include criteria relating to the principal's performance as a school council member and the principal's record of implementing the decisions of the council. The superintendent shall solicit information from the council members to be considered in the principal's evaluation;***

(c) The local school district shall review the evaluation plan to insure compliance with this section. Upon adoption, revisions to the evaluation plan shall be submitted for approval by the Kentucky Board of Education; and

(d)[~~(c)~~]The Kentucky Board of Education shall notify local school districts of their responsibilities under this subsection, develop written guidelines for local school districts to follow in developing and implementing an evaluation system and shall require the following:

1. All evaluations of certified employees below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;
2. The immediate supervisor of the certified school employee shall be designated as the primary evaluator;
3. All monitoring or observation of performance of a certified school employee shall be conducted openly and with full knowledge of the employee;
4. Evaluation shall include a conference between the evaluator and the person evaluated;
5. Evaluators shall be trained, tested, and certified in accordance with regulations adopted by the Kentucky Board of Education in the proper techniques for effectively evaluating certified school employees and in the use of the school district evaluation system;

6. The evaluation system shall include a plan whereby the person evaluated is given assistance for becoming more proficient as a teacher or administrator; and

7. The training requirement for evaluators contained in subsection (6)(c)5. of this section shall not apply to district board of education members.

(7) The State Department of Education shall visit school districts within the Commonwealth as needed to review and insure implementation of the evaluation system by the local school district. The department shall establish an appeals procedure for certified school employees who feel that the local school district failed to properly implement the approved evaluation system. The appeals procedure shall not involve requests from individual certified school employees for review of the judgmental conclusions of their personal evaluations.

(8) The State Department of Education shall select and train evaluators from outside each local school district to conduct evaluations as needed of a sample of certified school employees within each district in order to validate the effectiveness and accuracy of the local school districts' evaluators.

(9) Local school districts with an enrollment of sixty-five thousand (65,000) or more students shall be exempt from the requirements of this section except for subsection (10) of this section provided they meet the standards established by the Kentucky Board of Education for local school district evaluation systems.

(10) The local board of education shall establish an evaluation appeals panel for certified personnel which shall consist of two (2) members elected by the certified employees of the district and one (1) member appointed by the board of education who is a certified employee of the board. Certified employees who think they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation.

(11) This section shall be known as the "Effective Instructional Leadership Act."

Section 7. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools, subject to the following conditions:

1. a. Procedures for developing an ungraded primary program as defined in KRS 158.030 which shall be implemented by the beginning of the 1992-93 school year, and the program, in its entirety, shall be fully implemented for all students who have not entered the fourth grade in every elementary school in every district by the beginning of the 1993-1994 school year, except as provided in subparagraph 1.b. of this paragraph. The primary program shall include the following critical attributes: developmentally appropriate educational practices, multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement. The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time and will allow for grouping of students attending their first year of school when determined to be developmentally appropriate.

b. A school council established pursuant to ***Section 1 of this Act***~~[KRS 160.345]~~ or if none exists, a school may determine, based on individual student needs, that implementing multiage and multiability classrooms need not apply for every grouping of students for every activity throughout the entire day. The school council or school shall revise the action plan to reflect any changes in the primary program's design.

2. The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation. Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements in light of the expected outcomes for students and schools set forth in KRS 158.6451;

(d) Taking, and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools shall not be subject to waiver.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 8. KRS 160.345 is amended to read as follows:

(1) For the purpose of ***Sections 1, 2, 3, 4, 5, 6, and 7 of this Act and*** this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district; or
3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) [~~By January 1, 1991, ~~]Each local board of education shall adopt a policy for implementing school-based decision making in the district[~~ which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended~~] to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board.[~~ The policy shall also address and comply with the following:~~

~~(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.~~

~~(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.~~

~~2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:~~

~~a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and~~

~~b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.~~

~~(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.~~

~~2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.~~

~~(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.~~

~~(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.~~

~~(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.~~

~~(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.~~

~~(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local~~

~~superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.~~

~~(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:~~

~~1. Determination of curriculum, including needs assessment and curriculum development;~~

~~2. Assignment of all instructional and noninstructional staff time;~~

~~3. Assignment of students to classes and programs within the school;~~

~~4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;~~

~~5. Determination of use of school space during the school day;~~

~~6. Planning and resolution of issues regarding instructional practices;~~

~~7. Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal;~~

~~8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; and~~

~~9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.~~]

(3) The policy adopted by the local board to implement school-based decision making shall[~~ also~~] address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning;

(d) Professional development plans developed pursuant to KRS 156.095[~~ and 156.0951~~];

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council;[~~ and~~]

(i) A process for appealing a decision made by a school council***; and***

(j) A process within the certified employee evaluation program established under Section 6 of this Act that requires the superintendent to involve council members in the evaluation of the principal's performance as a council member and implementor of the council's decisions.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

[~~(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.~~

~~(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock~~

~~hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.~~

~~(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.~~]

(5)[~~(8)~~] The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development with the district's coordinator and other school councils. Small schools shall be encouraged to work with other school councils to maximize professional development opportunities. ***State funds allocated for professional development may be used to support council members' training, including training for parent members, as required under Section 2 of this Act.***

(a) Each council shall receive from the superintendent a notice of the allocations for every school in the district that includes all numbers that the administrative regulation promulgated by the Kentucky Board of Education under this subsection requires to be used to calculate the allocations, except that salaries and benefits may be listed in the aggregate. The Department of Education shall receive a notice providing those numbers for all schools.

(b) The Department of Education shall annually release to the public for each school district:

1. The dollar amounts and percentage of the total budget excluded from distribution to school councils;

2. The proposed district-wide expenditures; and

3. The amount of funds awarded to each school council.

The report shall utilize the Kentucky Uniform School Financial Accounting System.

(6)[~~(9)~~] (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council[~~ pursuant to paragraph (i) of subsection (2) of this section.~~]

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. ***The Office of Education Accountability shall develop a uniform complaint process that provides documentation of actions taken, but also maintains the confidentiality of the complainant.*** The office shall investigate the complaint and resolve the conflict ***to the satisfaction of both parties***, if possible, or forward the matter to the Kentucky Board of Education ***within six (6) months of receiving the complaint. No individual who brings a complaint shall suffer punitive action or retribution from the local board of education or any employee or agent of the board***.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

HB 714, AN ACT relating to the Education Professional Standards Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.

(e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is an employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office and who is certified for the position he holds, and it shall not apply to a superintendent's spouse who has at least twenty (20) years of service in school systems. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote his relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year. No spouse of a principal shall be employed in the principal's school, except a principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in ***any***[~~a~~] position ***in the district***[~~which involves supervisory or disciplinary power over a minor,~~] any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.[~~ Each superintendent shall request all conviction information for any applicant for initial employment from the Justice Cabinet prior to employing the applicant.~~]

(4) (a) ***Beginning January 1, 1999, a superintendent shall require a national and state criminal background check on all new certified hires in the school district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.***

(b) The superintendent shall require that each new certified hire, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Kentucky State Police and the

Federal Bureau of Investigation.

(c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

(d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.

(5) A superintendent shall require a state criminal background check on all classified initial hires.

(a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Kentucky State Police.

(b) Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The results of the state criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

(6) (a) If a school term has begun and a ***certified or classified*** position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the ***criminal history background check***[~~required records~~]. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of ***the criminal history background check***[~~records~~] documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the ***school*** district of a ***criminal history background check***[~~record~~] documenting a ***record of a sex crime or as a violent offender***[~~criminal act~~] as defined ***in KRS 17.165***[~~above~~] and no further procedures shall be required.

(d) The provisions of KRS 161.790 shall apply to terminate employment on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.

(7)[~~(5)~~] ***(a)*** Each application or renewal form, provided by the employer to ***an***[~~the~~] applicant ***for a classified position***, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A ***STATE*** CRIMINAL ***HISTORY BACKGROUND***[~~RECORD~~] CHECK AS A CONDITION OF EMPLOYMENT."

(b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

[~~(6) Any request for records under subsection (3) of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.~~

~~(7) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988. Initial employment shall include first time applicants and applicants who were former employees of the district but have not been employed by the district for six (6) months.~~]

Section 2. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board, pursuant to KRS 161.028, shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on Postsecondary Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall develop or select appropriate assessments for applicants seeking certification as principals, including:

(a) ***An***[~~A generic~~] assessment ***of the ability to apply knowledge***[~~to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to~~], instructional leadership, management, and ***supervision***[~~supervisory~~] skills; and

(b) A specialized assessment on the current instructional and administrative practices in Kentucky public education.

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of assessments and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the assessments. The Education Professional Standards Board shall provide for confidentiality of assessment scores.

(5) The Education Professional Standards Board shall develop an internship program which shall provide for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. A one (1) year certificate may be given to a person who has:

(a) A comparable certificate from another state; or

(b) All other qualifications except the assessments and is selected as a principal in a district where the superintendent certifies to the Education Professional Standards Board that there is a limited number of applicants to meet the requirements of the school council selecting a principal.

Upon successful completion of the assessments, a certificate shall be issued for an additional four (4) years.

(7) Upon successful completion of the approved preparation program and the assessments, the ***Education Professional Standards Board***[~~chief state school officer~~] shall issue to the applicant a statement of eligibility for internship valid for five (5) years. If the applicant does not participate in an internship program within the five (5) year period, the applicant shall reestablish eligibility by repeating and passing the assessments in effect at that time ***or by completing a minimum of six (6) graduate hours, directly related to instructional leadership, management, or supervision, at a regionally or nationally accredited institution. The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility***. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) All applicants for principal certification, after successfully completing the assessments, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the Education Professional Standards Board.

Section 3. KRS 161.028 is amended to read as follows:

(1) ***The***[~~Beginning July 15, 1990, there shall be an~~] Education Professional Standards Board ***has***[~~, with~~] the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;

(c) Issue, renew, ***revoke,*** suspend, ***or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of actions regarding any certificate***[~~and revoke teaching certificates~~];

(d) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(e) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(f) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends***, including the number of minority certified employees,***[~~and performance of certificated personnel~~] and the quality of professional preparation programs[~~. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 Regular Session of the General Assembly~~];

(g) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence;

(h) Develop a professional code of ethics;

(i) Select and evaluate the executive secretary to the board;

(j) Approve the biennial budget request[~~;~~] and ***advise the commissioner of education on budgetary matters;***

(k) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates***; and***

(l) Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the waiver.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of ***postsecondary*** institutions[~~ of higher education~~], two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b)[~~For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.~~

~~(c)~~] A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(c)[~~(d)~~]Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(d)[~~(e)~~]A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(e)[~~(f)~~] A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary[~~ appointed by the chief state school officer from the Department of Education staff~~] shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(f)[~~(g)~~] To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3)[~~No later than June, 1997, the board shall develop and submit to the Governor and the Legislative Research Commission plans for the operation of the board after July 15, 1998, including separation of administrative attachment to the Department of Education.~~

~~(4)~~] The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 4. KRS 161.030 is amended to read as follows:

(1) Notwithstanding the age of the pupil, the certification of all teachers and other school personnel, in public schools only, is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board. After July 15, 1994, all certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his file. Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board.

(2) Certificates shall be issued ***upon written application and in accordance with statutes and regulations in effect at the time of application*** to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.

(3) ~~[Initial]~~ Certification of all new teachers and ***teachers seeking additional certification***~~[reissuance of expired certificates for persons not completing two (2) years of successful teaching experience within the last ten (10) years]~~ shall require the successful completion of appropriate assessments prior to certification. The assessments shall be selected by the Education Professional Standards Board and shall measure~~[communication skills, general knowledge, professional education concepts, and]~~ knowledge in the specific teaching field of the applicant***, including content of the field and teaching of that content***. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each assessment. The assessments shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the assessments and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the assessments, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the assessments if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the assessments. If the teacher fails the assessments, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the assessments shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any assessment to repeat that assessment, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The Department of Education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) All new teachers~~[,]~~ and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The internship may be served in a public school or a nonpublic school which meets the state performance standards as established in KRS 156.160 or which has been accredited by a regional or national accrediting association. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator ***appointed by***~~[from]~~ a state-approved teacher training institution~~[to be appointed by the president of that institution]~~.

(a) If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal.

(b) In unusual situations, the Education Professional Standards Board may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee.

(c) If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district.

(d) If the intern is teaching in a regionally or nationally accredited nonpublic school without a principal, the person filling the principal member position may have other appropriate qualifications as required by administrative regulations promulgated by the Education Professional Standards Board.

(e) If the teacher training institution is unable to provide a member to serve on the beginning teacher committee in a nonpublic school, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.

(f) The resource teacher shall be appointed by the Department of Education from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the Department of Education for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the Department of Education. Priority shall be given to resource teachers~~[with the same certification as the teacher intern]~~ in the following order:

1. ***Teachers with the same certification in the same school;***
2. ***Teachers with the same certification in the same district;***
3. Teachers in the same school;
4.~~[2.]~~ Teachers in the same district; and
5.~~[3.]~~ Teachers in an adjacent school district.

(g) The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be~~[observing the beginning teacher]~~ in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the chief state school officer shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the assessments as prescribed by the Education Professional Standards Board. A principal hired after July 15, 1996, shall be required to complete the beginning teacher committee training program within one (1) year after his appointment.

(9) If an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity to serve the internship for a period of five (5) years after establishing eligibility. If the internship is not completed within the five (5) year period, the applicant must reestablish eligibility by repeating and passing the assessment program in effect for new teachers at that time or by completing a minimum of six (6) graduate hours toward completion of a graduate program required by administrative regulations promulgated by the Education Professional Standards Board. The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility.

(10) The Education Professional Standards Board shall approve the curricula of any standard college or university, or of any department thereof, for the training of teachers, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

Section 5. KRS 161.120 is amended to read as follows:

(1) ***The Education Professional Standards Board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of those actions regarding***~~[(a)]~~ any certificate issued under KRS 161.010 to 161.100, or any certificate or license issued under any previous law to superintendents, principals, teachers, ***substitute teachers, interns,*** supervisors, directors of pupil personnel, or other administrative, supervisory, or instructional employees ***for the following reasons:***~~[may be revoked by the Education Professional Standards Board for immorality, misconduct in office, incompetency, violation of the school~~

~~laws of the state or administrative regulations adopted by the Kentucky Board of Education, willful neglect of duty, conviction of a misdemeanor offense under KRS Chapter 510 involving a student, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or being found by the Education Professional Standards Board to have had sexual contact as defined in KRS 510.010(7) with a student, or upon the determination that a certificate applicant presented or declared false information toward obtaining the issuance or renewal of any type of teacher certification.~~]

(a) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, notwithstanding an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of the plea, one (1) of the following:

1. A felony;

2. A misdemeanor under KRS Chapter 508, 509, 510, 522, 525, 529, 530, or 531; or

3. A misdemeanor involving a student or minor.

A certified copy of the conviction or plea shall be conclusive evidence of the conviction or plea;

(b) Having sexual contact as defined in KRS 510.010(7) with a student or minor. Conviction in a criminal proceeding shall not be a requirement for disciplinary action;

(c) Committing any act that constitutes fraudulent, corrupt, dishonest, or immoral conduct. If the act constitutes a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action;

(d) Demonstrating willful or careless disregard for the health, welfare, or safety of others;

(e) Physical or mental incapacity that prevents the certificate holder form performing duties with reasonable skill, competence, or safety;

(f) Possessing, using, or being under the influence of alcohol, which impairs the performance of duties;

(g) Unlawfully possessing or unlawfully using a drug during the performance of duties;

(h) Incompetency or neglect of duty;

(i) Making, or causing to be made, any false or misleading statement or concealing a material fact in obtaining issuance or renewal of any certificate;

(j) Failing to report as required by subsection (3) of this section;

(k) Failing to comply with an order of the Education Professional Standards Board;

(l) Violating any state statute relating to schools or the teaching profession;

(m) Violating any administrative regulation promulgated by the Education Professional Standards Board or the Kentucky Board of Education; or

(n) Receiving disciplinary action or having the issuance of a certificate denied or restricted by another jurisdiction on grounds that constitute a violation of this subsection

[~~(b) The board may revoke an individual's certificate if the certificate was revoked or voluntarily surrendered in another state on the same or similar grounds provided in this subsection.~~]

(2) ***If an alleged violation is not of a serious nature and the evidence presented to the Education Professional Standards Board, after an appropriate opportunity for the certificate holder to respond, provides clear indication that the alleged conduct did in fact occur, the board may issue a written admonishment to the certificate holder. The certificate holder shall have the right to file a written response within thirty (30) days of the date of the admonishment and to have the response attached to the admonishment. Alternatively, the certificate holder may file a request for a hearing within thirty (30) days of the date of the written admonishment. Upon receipt of a timely request, the board shall set aside the written admonishment and set the matter for a hearing.***

(3) (a) The superintendent of each local school district shall report in writing to the Education Professional Standards Board the name, ***address, phone number,*** Social Security number, ***and*** position name[~~, and position code~~] of any certified school employee in ***the employee's***[~~his~~] district whose contract is terminated or not renewed, for cause ***except failure to meet local standards for quality of teaching performance prior to the employee gaining tenure***; who resigns from, or otherwise leaves, a position under threat of contract termination, or nonrenewal, for cause; who is convicted in a criminal prosecution; or who[~~ is~~] otherwise ***may***[~~known to~~] have engaged in any actions or conduct ***while employed in the school district that***[~~as~~] might reasonably be expected to warrant consideration for ***action against the*** certificate ***under subsection (1) of this section***[~~revocation~~]. The duty to report shall exist without regard to any disciplinary action, or lack thereof, by the superintendent, and the required report shall be submitted within thirty (30) days of the event giving rise to the duty to report.

(b) The district superintendent shall inform the Education Professional Standards Board in writing of the full facts and circumstances leading to the contract termination or nonrenewal, resignation, or other absence, conviction, or otherwise reported actions or conduct of the certified employee, ***that may warrant action against the certificate***

under subsection (1) of this section[~~which are based on immorality, misconduct in office, incompetency, violation of school law or administrative regulation promulgated by the Kentucky Board of Education, willful neglect of duty, or falsification of certification credentials~~], and shall forward copies of all relevant documents and records in his possession.

(c) The Education Professional Standards Board may consider reports and information received from other sources.

(d) The certified school employee shall be given a copy of any report provided to the Education Professional Standards Board by the district superintendent or other sources and shall have the right to file a written rebuttal which shall be attached to the district superintendent's report.

(4) A finding or action by a school superintendent or tribunal does not create a presumption of a violation or lack of a violation of subsection (1) of this section.

(5)[~~(3) (a)~~] ***Before revoking, suspending, refusing to renew, imposing probationary or supervisory conditions upon, issuing a written reprimand, or any combination of these actions regarding any certificate***[~~Upon taking action to initiate proceedings to revoke a certificate~~], the Education Professional Standards Board shall schedule and conduct a hearing in accordance with KRS Chapter 13B.

(6)[~~(b)~~] ***After denying an application for a certificate or issuing a written admonishment, the Education Professional Standards Board shall set the matter for a hearing upon written request filed within thirty (30) days of the letter advising of the denial, refusal, or admonishment.***

(7) Upon request, a[~~The~~] hearing may be public or private at the discretion of the certified employee ***or applicant***.

(8)[~~(c)~~]The hearing shall be conducted ***before***[~~by~~] the full board***, a panel of three (3) members of the board,*** or a person appointed as hearing officer by the board ***pursuant to KRS 13B.030(1)***.

(9)[~~(4)~~] If the Education Professional Standards Board substantiates that sexual contact occurred between a certified employee and a student, the employee's certificate may be revoked or suspended with mandatory treatment of the employee as prescribed by the Education Professional Standards Board. The Education Professional Standards Board may require the employee to pay a specified amount for mental health services for the student which are needed as a result of the sexual contact.

(10)[~~(5)~~] Any individual whose certificate is revoked may apply for reissuance of his certificate when he believes he can demonstrate himself suitable for reissuance, unless the Education Professional Standards Board's order of revocation sets forth a specific minimum period of revocation.

(11)[~~(6)~~] An appeal from any final order of the Education Professional Standards Board shall be filed in Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 6. The following KRS section is repealed:

161.040 General qualifications for certificates.

The Committee Substitute to **HB 714** is as follows:

AN ACT relating to the Education Professional Standards Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.

(e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is an employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office and who is certified for the position he holds, and it shall not apply to a superintendent's spouse who has at least twenty (20) years of service in school systems. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote his relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year. No spouse of a principal shall be employed in the principal's school, except a principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in ***any***~~[a]~~ position ***in the district***~~[which involves supervisory or disciplinary power over a minor,]~~ any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.~~[Each superintendent shall request all conviction information for any applicant for initial employment from the Justice Cabinet prior to employing the applicant.]~~

(4) (a) ***Beginning January 1, 1999, a superintendent shall require a national and state criminal background check on all new certified hires in the school district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.***

(b) The superintendent shall require that each new certified hire, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation.

(c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

(d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.

(5) A superintendent shall require a state criminal background check on all classified initial hires.

(a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Kentucky State Police.

(b) Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky

State Police. The results of the state criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

(6) (a) If a school term has begun and a ***certified or classified*** position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the ***criminal history background check***[~~required records~~]. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of ***the criminal history background check***[~~records~~] documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the ***school*** district of a ***criminal history background check***[~~record~~] documenting a ***record of a sex crime or as a violent offender***[~~criminal act~~] as defined ***in KRS 17.165***[~~above~~] and no further procedures shall be required.

(d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.

(7)[~~(5)~~] ***(a)*** Each application or renewal form, provided by the employer to ***an***[~~the~~] applicant ***for a classified position***, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A ***STATE*** CRIMINAL ***HISTORY BACKGROUND***[~~RECORD~~] CHECK AS A CONDITION OF EMPLOYMENT."

(b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

[~~(6) Any request for records under subsection (3) of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.~~

~~(7) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988. Initial employment shall include first time applicants and applicants who were former employees of the district but have not been employed by the district for six (6) months.~~]

Section 2. KRS 161.027 is amended to read as follows:

(1) The Education Professional Standards Board, pursuant to KRS 161.028, shall by administrative regulation establish requirements for a preparation program in institutions of higher education for all new applicants for principal certification and establish criteria for admission to the program.

(2) The Education Professional Standards Board and the Council on Postsecondary Education shall evaluate the preparation programs for principals and maintain only those institutional programs that can demonstrate both the quality and the capability to enroll adequate numbers of students to justify the resources necessary for maintenance of a quality program.

(3) The Education Professional Standards Board shall develop or select appropriate assessments for applicants seeking certification as principals, including:

(a) ***An***[~~A generic~~] assessment ***of the ability to apply knowledge***[~~to assure an acceptable level of communication skills, general knowledge, and professional education concepts related to, but not limited to~~], instructional leadership, management, and ***supervision***[~~supervisory~~] skills; and

(b) A specialized assessment on the current instructional and administrative practices in Kentucky public education.

(4) The Education Professional Standards Board shall establish the minimum score for successful completion of assessments and shall establish a reasonable fee to be charged applicants for the actual cost of administration of the assessments. The Education Professional Standards Board shall provide for confidentiality of assessment scores.

(5) The Education Professional Standards Board shall develop an internship program which shall provide for the supervision, assistance, and assessment of beginning principals and assistant principals. The internship shall not be required of applicants who have completed, within a ten (10) year period prior to making application, at least two (2) years of successful experience as a principal in a school situation. The Education Professional Standards Board, by administrative regulation, shall establish the internship program.

(6) The certification of principals shall require the successful completion of the examinations required by subsection (3) of this section. A one (1) year certificate may be given to a person who has:

(a) A comparable certificate from another state; or

(b) All other qualifications except the assessments and is selected as a principal in a district where the superintendent certifies to the Education Professional Standards Board that there is a limited number of applicants to meet the requirements of the school council selecting a principal.

Upon successful completion of the assessments, a certificate shall be issued for an additional four (4) years.

(7) Upon successful completion of the approved preparation program and the assessments, the ***Education Professional Standards Board***[~~chief state school officer~~] shall issue to the applicant a statement of eligibility for internship valid for five (5) years. If the applicant does not participate in an internship program within the five (5) year period, the applicant shall reestablish eligibility by repeating and passing the assessments in effect at that time ***or by completing a minimum of six (6) graduate hours, directly related to instructional leadership, management, or supervision, at a regionally or nationally accredited institution. The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility***. Upon obtaining employment for an internship position as principal or assistant principal within the period of eligibility, the applicant shall be issued the appropriate one (1) year certificate for the position.

(8) All applicants for principal certification, after successfully completing the assessments, shall successfully complete the internship program described in subsection (5) of this section for certification as a principal. If the principal's internship performance is judged to be less than satisfactory pursuant to administrative regulations developed by the Education Professional Standards Board, the principal applicant shall be provided with an opportunity to repeat the internship one (1) time if the applicant is employed by a school district as a principal or assistant principal.

(9) Following successful completion of the internship program, the principal's certificate shall be extended for four (4) years. Renewal of the certificate shall require the completion of a continuing education requirement as prescribed by the Education Professional Standards Board.

Section 3. KRS 161.028 is amended to read as follows:

(1) ***The***[~~Beginning July 15, 1990, there shall be an~~] Education Professional Standards Board ***has***[~~, with~~] the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel;

(c) Issue, renew, ***revoke,*** suspend, ***or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of actions regarding any certificate***[~~and revoke teaching certificates~~];

(d) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(e) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(f) Maintain data and submit reports to the Governor and the Legislative Research Commission concerning employment trends***, including the number of minority certified employees,***[~~and performance of certificated personnel~~] and the quality of professional preparation programs[~~. The board shall study the problem of the declining pool of minority teachers in the Commonwealth and submit recommendations for increasing the number of minority teachers to the 1992 Regular Session of the General Assembly~~];

(g) Reduce and streamline the credential system to allow greater flexibility in staffing local schools while maintaining standards for teacher competence;

(h) Develop a professional code of ethics;

(i) Select and evaluate the executive secretary to the board;

(j) Approve the biennial budget request[~~;~~] and ***advise the commissioner of education on budgetary matters;***

(k) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates***; and***

(l) Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the

waiver.

(2) (a) The board shall be composed of seventeen (17) members. The chief state school officer and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of ***postsecondary*** institutions[~~ of higher education~~], two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b)[~~For the initial appointments, the Governor shall designate four (4) members to serve a term of four (4) years; three (3) members to serve a term of three (3) years; three (3) members to serve a term of two (2) years; three (3) members to serve a term of one (1) year.~~

~~(c)~~] A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(c)[~~(d)~~]Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(d)[~~(e)~~]A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(e)[~~(f)~~] A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary[~~ appointed by the chief state school officer from the Department of Education staff~~] shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.

(f)[~~(g)~~] To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

(3)[~~No later than June, 1997, the board shall develop and submit to the Governor and the Legislative Research Commission plans for the operation of the board after July 15, 1998, including separation of administrative attachment to the Department of Education.~~

~~(4)~~] The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.

Section 4. KRS 161.030 is amended to read as follows:

(1) Notwithstanding the age of the pupil, the certification of all teachers and other school personnel, in public schools only, is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board. After July 15, 1994, all certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his file. Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board.

(2) Certificates shall be issued ***upon written application and in accordance with statutes and regulations in effect at the time of application*** to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.

(3) [~~Initial~~] Certification of all new teachers and ***teachers seeking additional certification***[~~reissuance of expired certificates~~

~~for persons not completing two (2) years of successful teaching experience within the last ten (10) years~~] shall require the successful completion of appropriate assessments prior to certification. The assessments shall be selected by the Education Professional Standards Board and shall measure[~~ communication skills, general knowledge, professional education concepts, and~~] knowledge in the specific teaching field of the applicant***, including content of the field and teaching of that content***. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each assessment. The assessments shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the assessments and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the assessments, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the assessments if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the assessments. If the teacher fails the assessments, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the assessments shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any assessment to repeat that assessment, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The Department of Education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) All new teachers[~~,~~] and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The internship may be served in a public school or a nonpublic school which meets the state performance standards as established in KRS 156.160 or which has been accredited by a regional or national accrediting association. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator ***appointed by***[~~from~~] a state-approved teacher training institution[~~ to be appointed by the president of that institution~~].

(a) If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal.

(b) In unusual situations, the Education Professional Standards Board may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee.

(c) If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district.

(d) If the intern is teaching in a regionally or nationally accredited nonpublic school without a principal, the person filling the principal member position may have other appropriate qualifications as required by administrative regulations promulgated by the Education Professional Standards Board.

(e) If the teacher training institution is unable to provide a member to serve on the beginning teacher committee in a nonpublic school, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.

(f) The resource teacher shall be appointed by the Department of Education from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the Department of Education for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the Department of Education. Priority shall be given to resource teachers[~~ with the same certification as the teacher intern~~] in the following order:

1. ***Teachers with the same certification in the same school;***

2. ***Teachers with the same certification in the same district;***

3. Teachers in the same school;

4.[~~2.~~] Teachers in the same district; and

5.[~~3.~~] Teachers in an adjacent school district.

(g) The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be[~~ observing the beginning teacher~~] in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the chief state school officer shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the assessments as prescribed by the Education Professional Standards Board. A principal hired after July 15, 1996, shall be required to complete the beginning teacher committee training program within one (1) year after his appointment.

(9) If an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity to serve the internship for a period of five (5) years after establishing eligibility. If the internship is not completed within the five (5) year period, the applicant must reestablish eligibility by repeating and passing the assessment program in effect for new teachers at that time or by completing a minimum of six (6) graduate hours toward completion of a graduate program required by administrative regulations promulgated by the Education Professional Standards Board. The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility.

(10) The Education Professional Standards Board shall approve the curricula of any standard college or university, or of any department thereof, for the training of teachers, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

Section 5. KRS 161.120 is amended to read as follows:

(1) ***The Education Professional Standards Board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of those actions regarding***[~~(a) ~~] any certificate issued under KRS 161.010 to 161.100, or any certificate or license issued under any previous law to superintendents, principals, teachers, ***substitute teachers, interns,*** supervisors, directors of pupil personnel, or other administrative, supervisory, or instructional employees ***for the following reasons:***[~~may be revoked by the Education Professional Standards Board for immorality, misconduct in office, incompetency, violation of the school laws of the state or administrative regulations adopted by the Kentucky Board of Education, willful neglect of duty, conviction of a misdemeanor offense under KRS Chapter 510 involving a student, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or being found by the Education Professional Standards Board to have had sexual contact as defined in KRS 510.010(7) with a student, or upon the determination that a certificate applicant presented or declared false information toward obtaining the issuance or renewal of any type of teacher certification.~~]

(a) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, notwithstanding an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of the plea, one (1) of the following:

1. A felony;

2. A misdemeanor under KRS Chapter 508, 509, 510, 522, 525, 529, 530, or 531; or

3. A misdemeanor involving a student or minor.

A certified copy of the conviction or plea shall be conclusive evidence of the conviction or plea;

(b) Having sexual contact as defined in KRS 510.010(7) with a student or minor. Conviction in a criminal proceeding shall not be a requirement for disciplinary action;

(c) Committing any act that constitutes fraudulent, corrupt, dishonest, or immoral conduct. If the act constitutes a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action;

(d) Demonstrating willful or careless disregard for the health, welfare, or safety of others;

(e) Physical or mental incapacity that prevents the certificate holder from performing duties with reasonable skill, competence, or safety;

(f) Possessing, using, or being under the influence of alcohol, which impairs the performance of duties;

(g) Unlawfully possessing or unlawfully using a drug during the performance of duties;

(h) Incompetency or neglect of duty;

(i) Making, or causing to be made, any false or misleading statement or concealing a material fact in obtaining issuance or renewal of any certificate;

(j) Failing to report as required by subsection (3) of this section;

(k) Failing to comply with an order of the Education Professional Standards Board;

(l) Violating any state statute relating to schools or the teaching profession;

(m) Violating any administrative regulation promulgated by the Education Professional Standards Board or the Kentucky Board of Education; or

(n) Receiving disciplinary action or having the issuance of a certificate denied or restricted by another jurisdiction on grounds that constitute a violation of this subsection

[~~(b) The board may revoke an individual's certificate if the certificate was revoked or voluntarily surrendered in another state on the same or similar grounds provided in this subsection.~~]

(2) ***If an alleged violation is not of a serious nature and the evidence presented to the Education Professional Standards Board, after an appropriate opportunity for the certificate holder to respond, provides clear indication that the alleged conduct did in fact occur, the board may issue a written admonishment to the certificate holder. The certificate holder shall have the right to file a written response within thirty (30) days of the date of the admonishment and to have the response attached to the admonishment. Alternatively, the certificate holder may file a request for a hearing within thirty (30) days of the date of the written admonishment. Upon receipt of a timely request, the board shall set aside the written admonishment and set the matter for a hearing.***

(3) (a) The superintendent of each local school district shall report in writing to the Education Professional Standards Board the name, ***address, phone number,*** Social Security number, ***and*** position name[~~, and position code~~] of any certified school employee in ***the employee's***[~~this~~] district whose contract is terminated or not renewed, for cause ***except failure to meet local standards for quality of teaching performance prior to the employee gaining tenure***; who resigns from, or otherwise leaves, a position under threat of contract termination, or nonrenewal, for cause; who is convicted in a criminal prosecution; or who[~~ is~~] otherwise ***may***[~~known to~~] have engaged in any actions or conduct ***while employed in the school district that***[~~as~~] might reasonably be expected to warrant consideration for ***action against the*** certificate ***under subsection (1) of this section***[~~revocation~~]. The duty to report shall exist without regard to any disciplinary action, or lack thereof, by the superintendent, and the required report shall be submitted within thirty (30) days of the event giving rise to the duty to report.

(b) The district superintendent shall inform the Education Professional Standards Board in writing of the full facts and circumstances leading to the contract termination or nonrenewal, resignation, or other absence, conviction, or otherwise reported actions or conduct of the certified employee, ***that may warrant action against the certificate under subsection (1) of this section***[~~which are based on immorality, misconduct in office, incompetency, violation of school law or administrative regulation promulgated by the Kentucky Board of Education, willful neglect of duty, or falsification of certification credentials~~], and shall forward copies of all relevant documents and records in his possession.

(c) The Education Professional Standards Board may consider reports and information received from other sources.

(d) The certified school employee shall be given a copy of any report provided to the Education Professional Standards Board by the district superintendent or other sources and shall have the right to file a written rebuttal which shall be attached to the district superintendent's report.

(4) A finding or action by a school superintendent or tribunal does not create a presumption of a violation or lack of a violation of subsection (1) of this section.

(5)[~~(3) (a)~~] ***Before revoking, suspending, refusing to renew, imposing probationary or supervisory conditions upon, issuing a written reprimand, or any combination of these actions regarding any certificate***[~~Upon taking action to initiate proceedings to revoke a certificate~~], the Education Professional Standards Board shall schedule and conduct a hearing in accordance with KRS Chapter 13B.

(6)[~~(b)~~] ***After denying an application for a certificate or issuing a written admonishment, the Education Professional***

Standards Board shall set the matter for a hearing upon written request filed within thirty (30) days of the letter advising of the denial, refusal, or admonishment.

(7) Upon request, a[~~The~~] hearing may be public or private at the discretion of the certified employee ***or applicant***.

(8)[~~(c)~~]The hearing shall be conducted ***before***[~~by~~] the full board***, a panel of three (3) members of the board,*** or a person appointed as hearing officer by the board ***pursuant to KRS 13B.030(1)***.

(9)[~~(4)~~] ***The Education Professional Standards Board or its chair may take emergency action pursuant to KRS 13B.125. Emergency action shall not affect a certificate holder's contract or tenure rights in the school district.***

(10) If the Education Professional Standards Board substantiates that sexual contact occurred between a certified employee and a student, the employee's certificate may be revoked or suspended with mandatory treatment of the employee as prescribed by the Education Professional Standards Board. The Education Professional Standards Board may require the employee to pay a specified amount for mental health services for the student which are needed as a result of the sexual contact.

(11)[~~(5)~~] Any individual whose certificate is revoked may apply for reissuance of his certificate when he believes he can demonstrate himself suitable for reissuance, unless the Education Professional Standards Board's order of revocation sets forth a specific minimum period of revocation.

(12)[~~(6)~~] An appeal from any final order of the Education Professional Standards Board shall be filed in Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 6. The following KRS section is repealed:

161.040 General qualifications for certificates.

SB 5, AN ACT relating to the Kentucky Higher Educational Savings Plan Trust and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.300 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky hereby declares as a legislative finding of fact that the general welfare and well-being of the Commonwealth are directly related to the educational levels and skills of the citizens of the Commonwealth. Therefore, a vital and valid public purpose of the Commonwealth is served by the creation and implementation of programs which encourage and make possible the attainment of higher education by the greatest number of citizens of the Commonwealth.

(2) The General Assembly finds, declares, and recognizes that the Commonwealth has limited resources to provide additional programs for higher education funding and that the continued operation and maintenance of the institutions of higher education in Kentucky and the general welfare of the citizens and the Commonwealth will be enhanced by creation of a program pursuant to which citizens and others may invest money in a public trust for future application to the payment of higher education costs in the Commonwealth and elsewhere and that the creation of a means of encouragement of citizens in the investment of funds for such future higher education application represents the carrying out of a valid and vital public purpose of the Commonwealth. In order to make available to the citizens of the Commonwealth an opportunity to fund future higher education needs for beneficiaries with certain public assistance, it is necessary that a public trust be established in which the citizens of the Commonwealth and others may invest moneys for future educational use. It is further necessary to establish and create an endowment trust, which may be funded with public funds, among other sources, the income from which will be made available to participants in the savings plan trust to enhance their savings invested for future higher education costs.

(3) It is the intent of the General Assembly of the Commonwealth of Kentucky to create the Kentucky Educational Savings Plan Trust with a separate endowment trust to enhance the investment return of the savings plan trust. The implementation and effectuation of the Kentucky Educational Savings Plan Trust as provided by KRS 164A.310 to 164A.380 constitutes the carrying out of a valid and vital public purpose for which public funds of the Commonwealth may be expended.

(4) It is in the best interest of the people of the Commonwealth to establish and provide for the operation of the Kentucky Educational Savings Plan Trust in a manner conforming to federal law that allows participants and beneficiaries federal income taxation benefits on contributions and earnings on contributions expended by the trust for the higher education costs of a beneficiary.

Section 2. KRS 164A.310 is amended to read as follows:

There is hereby created an instrumentality of the Commonwealth to be known as the Kentucky Educational Savings Plan Trust. The board, in the capacity of trustee, shall have the power and authority to:

(1) Sue and be sued;

(2) Make and enter into contracts necessary for the administration of the savings plan trust pursuant to KRS 164A.300 to

164A.380;

(3) Adopt a corporate seal and to change and amend it from time to time;

(4) Invest moneys within the program fund in any investments determined by the board to be appropriate, notwithstanding any other statutory limitations contained in the Kentucky Revised Statutes, which are specifically determined to be inapplicable to the savings plan trust;

(5) Enter into agreements with any institution of higher education, the Commonwealth of Kentucky***,*** or any federal or other state agency or other entity as required for the effectuation of its rights and duties pursuant to KRS 164A.300 to 164A.380;

(6) Accept any grants, gifts, legislative appropriations, and other moneys from the Commonwealth, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the administrative fund or the program fund, which, in the case of any contributions from other than general funds of the Commonwealth, may be limited in application to definite classes of beneficiaries;

(7) Enter into participation agreements with participants;

(8) Make payments to institutions of higher education pursuant to participation agreements on behalf of beneficiaries;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in KRS 164A.300 to 164A.380;

(10) Appoint a program administrator and to determine the duties of the program administrator and other staff as necessary and fix their compensation within the provisions of KRS Chapter 18A;

(11) Make provision for the payment of costs of administration and operation of the savings plan trust;~~[and]~~

(12) Carry out the duties and obligations of the savings plan trust pursuant to KRS 164A.300 to 164A.380 and to have any and all other powers as may be reasonably necessary for the effectuation of the purposes of the savings plan trust and KRS 164A.300 to 164A.380***; and***

(13) Promulgate administrative regulations to implement the provisions of KRS 164A.300 to 164A.380 consistent with the federal Internal Revenue Code and administrative regulations issued pursuant to that code.

Section 3. KRS 164A.305 is amended to read as follows:

As used in KRS 164A.300 to 164A.380, except where the context clearly requires another interpretation:

(1) "Act" means the Kentucky Educational Savings Plan Trust Act codified at KRS 164A.300 to 164A.380;

(2) "Administrative fund" means the funds used to administer the Kentucky Educational Savings Plan Trust;

(3) "Beneficiary" means***:***

(a) Any person designated ***at the commencement of participation*** by a participation agreement to benefit from payments for higher education costs at an institution of higher education;

(b) The new beneficiary, in the case of a change of beneficiaries pursuant to subsection (7) of Section 4 of this Act; or

(c) The scholarship recipient, in the case of a participation agreement entered into as part of a scholarship program operated by a state or local government organization or an organization described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. section 501(c)(3), that is exempt from federal income taxation pursuant to section 501(a) of that code;

(4) "Benefits" means the payment of higher education costs on behalf of a beneficiary by the savings plan trust during the beneficiary's attendance at an institution of higher education;

(5) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority;

(6) "Endowment trust" means the endowment fund established pursuant to KRS 164A.337 which shall be administered as a separate trust;

(7) "Higher education costs" means the~~[certified]~~ costs ***specified in section 529(e)(3) of the Internal Revenue Code of 1986 as amended*** for attendance at an institution of higher education as ***determined and certified by the institution of higher education in the same manner as prescribed***~~[those costs are defined]~~ in Title IV of the Higher Education Act of 1965, 20 U.S.C. sec. 1087ll, as amended~~[, including tuition and fees, room and board, transportation, books and supplies, and miscellaneous personal expenses]~~;

(8) "Institution of higher education" means ***an institution as defined in section 529(e)(5) of the Internal Revenue Code of 1986, as amended***~~[a two (2) year or four (4) year public or regionally accredited private or nonprofit college, university, or vocational-technical school]~~;

(9) "Kentucky Educational Savings Plan Trust" or "savings plan trust" means the trust created pursuant to KRS 164A.310;

(10) "Participant" means ***an organization described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. section***

501(c)(3), that is exempt from federal income taxation pursuant to section 501(a) of that code, an individual, firm, corporation, ***a state or local government organization,*** or a legal representative of any of the foregoing who has entered into a participation agreement pursuant to KRS 164A.300 to 164A.380 for the advance payment of higher education costs on behalf of a beneficiary;

(11) "Participation agreement" means an agreement between a participant and the savings plan trust, pursuant to and conforming with the requirements of KRS 164A.300 to 164A.380;

(12) "Program administrator" means the administrator of the savings plan trust appointed by the board to administer and manage the trust;

(13) "Program fund" means the program fund established by KRS 164A.335 which shall be held as a separate fund within the savings plan trust;

(14) "Tuition" means the quarterly or semester charges imposed to attend an institution of higher education and required as a condition of enrollment;

(15) "Vested participation agreement" means a participation agreement which has been in full force and effect during eight (8) continuous years of residency of the beneficiary in the Commonwealth while participating in the savings plan trust.

Section 4. KRS 164A.330 is amended to read as follows:

The savings plan trust shall have the authority to enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and agreements:

(1) Each participation agreement shall require a participant to agree to invest a specific amount of money in the trust for a specific period of time for the benefit of a specific beneficiary. Participation agreements may be amended to provide for adjusted levels of ***contributions***[~~payments~~] based upon changed circumstances or changes in educational plans and may contain penalties for failure to make ***contributions***[~~payments~~] when scheduled;

(2) Notwithstanding the provisions of subsection (1) of this section, participants may elect to enter into a lump-sum ***contribution***[~~payment~~] participation agreement in connection with which a single, lump-sum ***contribution***[~~payment~~] is made by the participant for the benefit of a beneficiary;

(3) The participation agreement shall specify the minimum rate of interest which shall be borne by the investment made by the participant;

(4) Beneficiaries designated in participation agreements may be designated from date of birth through age fourteen (14);

(5) Payment of benefits provided under participation agreements must begin not later than the first full academic semester at an institution of higher education following the eighteenth birthday of the subject beneficiary unless the participant notifies the program administrator to delay payment of benefits for a designated period of time. At the end of that designated period of time, the payment of benefits shall begin unless the participant again notifies the program administrator to delay payment of benefits;

(6) The execution of a participation agreement by the trust shall not guarantee in any way that higher education costs will be equal to projections and estimates provided by the trust or that the beneficiary named in any participation agreement will:

   (a) Be admitted to an institution of higher education;

   (b) If admitted, be determined a resident for tuition purposes by the institution of higher education, unless the participation agreement is vested;

   (c) Be allowed to continue attendance at the institution of higher education following admission; or

   (d) Graduate from the institution of higher education;

(7) Beneficiaries may be changed as permitted by the rules and regulations of the board upon written request of the participant prior to the date of admission of any beneficiary under a participation agreement by an institution of higher education provided, however, that the substitute beneficiary shall be eligible;

(8) Participation agreements shall be freely amended throughout their terms in order to enable participants to increase or decrease the level of participation, change the designation of beneficiaries, and carry out similar matters;

(9) Each participation agreement shall provide that for vested participation agreements, the beneficiary shall be considered a resident of the Commonwealth for tuition purposes if the beneficiary enrolls in an institution of higher education in Kentucky prior to enrollment in any other educational institution; and

(10) Each participation agreement shall provide that ***it***[~~the participation agreement~~] may be canceled ***under***[~~upon~~] the terms and conditions, ***including***[~~and upon~~] payment of the fees and costs***,*** set forth[~~, and contained~~] in the rules and regulations promulgated by the board.

(11) The participation agreement shall ensure that contributions made pursuant to subsections (1) and (2) of this section shall not be made in real or personal property other than cash and shall not exceed the anticipated higher education costs of the beneficiary.

(12) The participation agreement shall provide that the participant and the beneficiary shall not directly or indirectly or

otherwise control the investment of contributions or earnings on contributions.

(13) Information obtained from a participant or a beneficiary and other personally identifiable records made by the trust in the administration of this chapter are confidential and shall not be published or be open for public inspection pursuant to KRS 61.870 to 61.884, except as provided below:

(a) Upon written request, a participant or beneficiary or his legal representative shall be entitled to be advised of the aggregate balance of contributions and earnings for all participation agreements that designate that same beneficiary;

(b) Information may be made available to public employees in the performance of their duties, but the agency receiving the information shall assure the confidentiality, as provided for in this section, of all information so released;

(c) Statistical information derived from information and records obtained or made by the trust may be published, if it in no way reveals the identity of any participant or beneficiary; and

(d) Nothing in this section shall preclude the program administrator or any employee of the board from testifying or introducing as evidence information or records obtained or made by the trust in any proceeding under this chapter, in an action to which the trust is a party, or upon order of a court.

Section 5. KRS 164A.335 is amended to read as follows:

The board shall segregate moneys received by the savings plan trust into two (2) funds, which shall be identified as the program fund and the administrative fund. Transfers may be made from the program fund to the administrative fund for the purpose of paying operating costs associated with administering the trust and as required by KRS 164A.300 to 164A.380. All moneys credited to the administrative fund shall be deposited in accordance with KRS 41.070. All moneys paid by participants in connection with participation agreements shall be deposited as received into the program fund and shall be promptly invested and accounted for separately. ***Contributions shall be accounted for separately for each beneficiary.*** Deposits and interest thereon accumulated on behalf of participants in the program fund of the savings plan trust may be used for payments to any institution of higher education. However, no rights to any moneys derived from the endowment trust shall exist if moneys payable under the participation agreement are paid to an education institution which is not an institution of higher education in Kentucky, as defined by KRS 164A.300 to 164A.380.

Section 6. KRS 164A.350 is amended to read as follows:

For all purposes of Kentucky law, the following shall be applicable:

(1) The participant shall retain ownership of all ***contributions***[~~payments~~] made under any participation agreement up to the date of utilization for payment of higher education costs for the beneficiary, and all interest derived from the investment of the ***contributions***[~~payments~~] made by the participant shall be deemed to be held in trust for the benefit of the beneficiary;

(2) ***Any participant may cancel a participation agreement.*** In the event the participation agreement is terminated[~~ prior to payment of higher education costs for the beneficiary~~], the participant shall retain ownership of all ***contributions***[~~payments~~] made under the participation agreement ***not previously expended for the higher education costs of the beneficiary*** and a reversionary right to receive interest on all the ***contributions***[~~payments~~] at the rate of interest at which the ***contributions***[~~payments~~] were invested, except that ***the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section***[~~no right to receive interest shall exist in cases of voluntary participant termination except as provided in KRS 164A.345(1)~~];

(3) If the beneficiary graduates from an institution of higher education, and a balance remains in the participant's account, then the program administrator shall pay the balance to the participant***, except that the participant shall be required to pay a penalty upon the interest that has been credited to the participant's account in accordance with subsection (7) of this section***;

(4) The institution of higher education shall obtain ownership of the ***contributions***[~~payments~~] made for the higher education costs paid to the institution at the time each payment is made to the institution;

(5) Any amounts which may be paid pursuant to the Kentucky Educational Savings Plan Trust which are not listed in this section, shall be owned by the trust; and

(6) A participant may transfer ownership rights to another eligible participant, including, but not limited to, a gift of the ownership rights to a minor beneficiary pursuant to KRS Chapter 385, except that, notwithstanding KRS 385.202(1), the transfer shall be affected and the property distributed in accordance with administrative regulations promulgated by the board or the terms of the participation agreement.

(7) Notwithstanding any other law to the contrary, if any earnings on contributions are refunded due to cancellation of the participation agreement by the participant or nondistribution of the funds for payment of the beneficiary's higher education costs, the board shall charge a penalty to the participant against the earnings on contributions. No

penalty shall be charged when a refund is made due to:

- ***(a) The death, permanent disability, or mental incapacity of the beneficiary; or***
- ***(b) The beneficiary's receipt of a scholarship, an educational assistance allowance under Chapters 30, 31, 32, 34, or 35 of title 38, United States Code, or a payment exempt from income taxation by any law of the United States, other than a gift, bequest, devise, or inheritance within the meaning of section 102(a) of the Internal Revenue Code, 20 U.S.C. section 102(a), for educational expenses, or attributable to attendance at an institution of higher education, to the extent that the amount refunded does not exceed the amount of the scholarship, allowance, or payment.***

(8) Notwithstanding any other provision of law to the contrary, contributions and earnings on contributions held by the trust shall be exempt from levy of execution, attachment, garnishment, distress for rent, or fee bill by a creditor of the participant or the beneficiary. No interest of the participant or beneficiary in the trust shall be pledged or otherwise encumbered as security for a debt.

Section 7. The following KRS section is repealed:

164A.345 Cancellation of participation agreements.

Section 8. Whereas Public Law 104-188 requires that its provisions be retroactively applied to a qualified state tuition program if the amendments necessary to meet the federal requirements are made to the state program by the first day of the calendar quarter after the close of the first regular session of the General Assembly that begins after August 20, 1996, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SB 202, . AN ACT relating to postsecondary education and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited osteopathic school of medicine located in the Commonwealth and become certified practitioners rendering medical service in the Commonwealth.

(2) The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to become osteopaths and practice in the Commonwealth and who are eligible under subsection (4) of this section.

(3) The authority may award scholarships to students who meet the following criteria:

- ***(a) Kentucky residents who are United States citizens as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;***
- ***(b) Students who are enrolled or accepted for enrollment in an eligible program of study accredited by the Bureau of Professional Education of the American Osteopathy Association or its successor, on a full-time basis, or eligible students have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. sec. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;***
- ***(c) Students who agree to render one (1) year of qualified service in the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed doctor of osteopathy for a majority of the calendar year in the fields of family practice, general practice, general internal medicine, general pediatrics, general obstetrics, or gynecology, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. sec. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and***
- ***(d) Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.***

(4) The amount of the scholarship awarded to an eligible student by the authority shall be equal to the difference between the prevailing amount charged for in-state tuition at the University of Kentucky School of Medicine and the University of Louisville School of Medicine and the prevailing amount charged for tuition at the osteopathic school of medicine in which the student is enrolled.

(5) The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory

notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render qualified medical service as a primary care physician as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the amount of the scholarship awarded.

(6) A scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

(7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.

(8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice medicine, subject to the procedures set forth in KRS Chapter 311.

(9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures for the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, repayment of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.

(10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.

(11) (a) The "Osteopathic Medicine Scholarship Program" is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying osteopathic medicine in schools in the Commonwealth.

(b) Funding shall be transferred to the special trust fund from the coal severance tax revenues levied under KRS 143.020 in an amount that permits each Kentucky resident eligible under subsection (3) of this section to be awarded a scholarship in the amount established under subsection (4) of this section. No more than four percent (4%) of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. To the extent this appropriation and other funds are available, the authority shall award scholarships to all renewal applicants and eligible students in accordance with the formula for determining the amount of the scholarship award established in this section.

(c) The trust fund may also receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.

(12) On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided in subsection (11)(b) of this section shall be transferred to the special trust fund and the remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year. The revenue transfers shall be based upon the revenue estimates prevailing at the time each transfer is due.

(13) The calculation and transfer of funds under subsection (11) of this section shall be made only after the quarterly installment of the annual nineteen million dollars ($19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Workers' Compensation Funding Commission as required by KRS 342.122.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any statute to the contrary, no funds appropriated by the General Assembly for the purposes of student financial assistance shall be awarded or disbursed to students enrolled in a program of study at a school of osteopathic medicine or a college, business school, school of nursing, or vocational school, as defined in KRS 164.740, located within the Commonwealth, unless the educational institution:

(1) Submits existing student grievance policies as a licensed institution to the Council on Postsecondary Education for evaluation and institutional revision as necessary to assure due process procedures are consistent with the Constitution of the United States and the Constitution of Kentucky; and

(2) Awards at least as much student financial assistance from institutional funds to residents of the Commonwealth as the institution awards from institutional funds to nonresidents of the Commonwealth for undergraduate

programs of study, excluding reciprocal tuition agreements and athletic scholarships or provides a report to the Kentucky Higher Education Assistance Authority on its headcount enrollment, both resident and nonresident, and the amount of student financial assistance awarded from institutional funds to residents and nonresidents.

The Committee on Appropriations and Revenue reported **HB 36,** with Committee Substitutes and Committee Amendment attached thereto, **HB 146,** with Committee Substitutes attached thereto, and **HB 327,** with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 36** is as follows:

AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 78 IS CREATED TO READ AS FOLLOWS:

(1) Upon retirement, a noncertified employee shall have his service credit earned after July 1, 1998, recalculated in accordance with KRS 78.615 except that the employee shall receive service credit determined by dividing the actual number of contracted days worked by twenty (20) and rounding any remainder to the next whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.

(2) Each school board for whom the employee worked shall pay the cost of the additional months of service credited to the employee for school years reported by the school board. The cost shall be the member and employer contributions that would have been paid on the employee's average monthly salary for each school year plus interest at the actuarial rate. Payment shall be due at the retirement office within thirty (30) days of receipt of notice from the retirement system. If the school board does not make the payment within thirty (30) days, interest at the actuarial rate shall be added to the payment for each additional thirty (30) days after payment is due.

(3) An employee who takes a refund, in accordance with KRS 61.625, of contributions made as an employee of a school board shall not be entitled to additional months service credit under subsection (1) of this section for the period covered by the refund. If the employee repays the refund as provided by KRS 61.552(1), the employee may have his service recalculated under the provisions of subsection (1) of this section for the period covered by the refund if the member pays the cost of the additional months prior to his retirement. The cost shall be the same as for the employer. The payment shall be credited to the member's account.

(4) The Kentucky Retirement Systems shall adjust the service credit for all affected members who earned service credit for the school years 1996-97 and 1997-98 by recomputing the members' service based on the rounding method provided in subsection (1) of this section.

Section 2. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

  (a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

  (b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

  (c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

  (d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

  (e) Three (3) trustees, appointed by the Governor of the Commonwealth***.***~~[,]~~ ***Of the three (3) trustees appointed by the Governor,*** one (1) ~~[of whom]~~shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to, the following powers:

  (a) To sue and be sued in its corporate name;

  (b) To make bylaws not inconsistent with the law;

  (c) To conduct the business and promote the purposes for which it was formed;

  (d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require;

  (e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate, not less than six (6) months before a term of office of a trustee is due to expire, at least three (3) constitutionally-eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the commissioner of personnel resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting;

(e) Expend funds for goods and services pursuant to the provisions of KRS Chapter 45A as they apply to state agencies, but if the board designates an emergency by letter to the secretary of the Finance and Administration Cabinet, the secretary shall within thirty (30) days of submission approve or reject a proposed personal service contract submitted to him by the board pursuant to KRS 45A.045. If the secretary rejects the proposed contract, he shall provide a detailed written statement of his reasons therefor. If the secretary fails or refuses to act within the thirty (30) day period, the proposed contract shall be deemed approved without further action pursuant to KRS 45A.045; and

(f) Do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 conform with federal statute or regulation. Provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 which conflict with federal statute or regulation shall not be available to the member. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation.

(10) All employees of the board shall serve during its will and pleasure.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes

are within the person's professional or expert competence; or

3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

(17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

The Committee Substitute No. 2 to **HB 146** is as follows:

AN ACT relating to deaf and hard of hearing students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly declares on behalf of the deaf and hard of hearing students the following goals to be achieved by the year 2005:

(a) Teachers of the deaf and hard of hearing students shall be knowledgeable of the unique educational needs of students with hearing loss;

(b) Deaf and hard of hearing graduates in the year 2005 and beyond shall perform at a higher level of performance, comparable to their hearing peers;

(c) The deaf and hard of hearing graduates in the year 2005 and beyond who successfully make the transition to adult life shall be comparable to their hearing peers; and

(d) Teachers who are certified to teach deaf and hard of hearing students shall demonstrate competency in communication on a standardized assessment in the preferred language and mode of communication utilized by their students.

(2) As used in Sections 1 to 2 of this Act, unless the context requires otherwise:

(a) "American Sign Language" means a visual-manual system of communication that has its own syntax, rhetoric, and grammar and is recognized and accepted as a language used by many deaf Americans;

(b) "Comparable" means equivalent or equal;

(c) "Cued speech" means a system of eight (8) handshapes representing consonant cues placed at four (4) positions representing vowel cues around the face to form a sound-based visual communications system;

(d) "Deaf" means having a hearing loss that adversely affects educational performance and is so severe or profound that the individual is impaired in processing linguistic information through hearing, with or without amplification. Communication and learning are primarily by visual means.

(e) "Deaf community" means a community of deaf individuals, parents and teachers of deaf children, professionals working with deaf and hard of hearing individuals, and people with hearing loss who interact on common goals;

(f) "Deaf culture" means a set of learned behaviors and perceptions based on shared or common experiences that shape the values and norms of deaf people;

(g) "Hard of hearing" means having a hearing loss ranging from mild to severe, whether permanent or fluctuating, which is not included under the definition of "deaf" in this section;

(h) "Least restrictive environment" means the educational setting in which the child or youth with a disability can learn effectively, based upon unique needs and capabilities, and interact with similar age peers;

(i) "Oral" means utilizes speech, speechreading, and residual hearing as the primary mode of communication;

(j) "Preferred language and communication mode" means the language and communication mode that the deaf or hard of hearing individual prefers or is most comfortable using. This may be American Sign Language, a manual form of English, oral, cued speech, writing, or any other mode of communication; and

(k) "Speechreading" means the ability to understand a speaker by watching the movements of the mouth, face, and body and by using information provided by the situation and the language used.

(3) (a) The Kentucky Department of Education shall develop a method of assessment and establish a database on deaf and hard of hearing students, not later than July 1, 2000, which will measure the educational progress of deaf and hard of hearing students in comparison to the educational achievement of their hearing peers. The assessment shall measure reading comprehension, writing, and mathematics computation. In subsequent years, the department shall test deaf and hard of hearing students and publish summary data relating to gains or losses in student achievement.

(b) The department shall provide transition data on deaf and hard of hearing students who graduate from high school to determine their success as compared to their hearing peers.

(4) (a) In the placement of a student who is deaf or hard of hearing in preschool, elementary and secondary programs and in designing individual education plans, the admissions and release committee shall consider language and communication needs, opportunities for direct communication with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode.

(b) A deaf or hard of hearing student shall be provided an appropriate educational program in the least restrictive environment by qualified teachers, staff, interpreters, and resource support personnel who communicate effectively in the student's language and communication mode.

SECTION 2. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) Teachers certified to teach deaf and hard of hearing students on July 1, 2000, or after shall demonstrate competency consistent with the requirements of an existing standardized assessment in the students' preferred language and communication mode at a level established by the Education Professional Standards Board by administrative regulation. The Education Professional Standards Board shall consult with the Kentucky School for the Deaf and the Eastern Kentucky University Teacher Training Program in developing the administrative regulations.

(2) Any teacher who is certified to teach deaf and hard of hearing students and was employed prior to July 1, 2000, shall demonstrate competency in the students' preferred primary language and communication mode by July 1, 2005, as defined in subsection (1) of this section in order to be eligible to continue to teach deaf and hard of hearing students. The local school district may provide release time, tuition assistance, and extended time to assist the teacher in meeting the requirement described in this subsection.

(3) All staff employed in a school where there are deaf students shall receive an orientation on the unique needs of students who are deaf and hard of hearing; and the rights of children who are deaf and hard of hearing. The Kentucky Department of Education shall develop appropriate levels of orientation for classified and certified staff. The orientation shall be arranged and paid for by the local school district.

(4) Teachers of American Sign Language as a foreign language in a public school system on July 1, 2000, or after, shall demonstrate competency in teaching American Sign Language consistent with the recommendations of existing national and state professional organizations of teachers of American Sign Language. The Education Professional Standards Board shall promulgate administrative regulations to carry out this subsection after consulting with the Kentucky School for the Deaf, and the Eastern Kentucky University Teacher Training Program.

The Committee Substitute No. 2 to **HB 327** is as follows:

AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) While the alcohol concentration in his blood or breath is ***0.08***[~~0.10~~] or more based on the definition of alcohol concentration in KRS 189A.005;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005 if the person is under the age of twenty-one (21).

(2) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood, or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***[~~0.10~~] based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(3) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(4) Any person who violates the provisions of paragraphs (a), (b), (c) or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months.

(c) For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months.

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony.

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(5) Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection (4) of this section or any other penalty established pursuant to KRS Chapter 189A.

(6) If the person is under the age of twenty-one (21) and there was an alcohol concentration of ***0.08***[~~0.10~~] or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (4) of this section.

(7) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor

shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(8) When sentencing persons under subsection (4)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(9) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

Section 2. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by subsection (4)(a) of KRS 189A.010, the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender:

(a) The treatment or education shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the ninety (90) day period.

(d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by subsection (4)(b) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by subsection (4)(c) or (d) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For the purposes of this section, treatment means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Human Resources, ***Office of the Inspector***

General, for services as required under this section.

(6) The Cabinet for Human Resources***, Office of the Inspector General,*** shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Human Resources***, Office of the Inspector General,*** shall include:

(a) ***Assessments Instruments approved by the National Traffic Safety Board***[~~Manner of assessment~~];

(b) ***Approval of individual***[~~Appropriate~~] education and treatment plans; [~~and~~]

(c) Referrals to other treatment providers***; and***

(d) Approval of individual and program certification.

(7) The Office of Inspector General shall accept individual certification established by the Kentucky Board of Certification of Alcohol and Drug Counselors identified in KRS 309.080. However, the board shall have reciprocity with the:

(a) National Association of Alcohol and Drug Counselors;

(b) International Counselors Reciprocity Consortium;

(c) American Academy of Health Care Providers in the Addiction Disorder; and

(d) National Association of Forensic Counselors / National Association of Addiction Examiners.

(8)[~~(7)~~] The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(9)[~~(8)~~] Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 3. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010 shall be sentenced to pay a service fee of two hundred ***fifty*** dollars ***($250)***[~~($200)~~], which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases, but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) ***The revenue collected from*** the service fee ***imposed by*** [~~shall be utilized to fund enforcement of~~] this ***section shall be distributed as follows:***

(a) Twenty-seven percent (27%) to the Cabinet for Human Resources to cover the cost of treatment programs for indigent offenders;[~~chapter and for the support of jails, recordkeeping, treatment and education programs authorized by this chapter, and the Department of Public Advocacy.~~]

(b)[~~(4)~~] Twenty-five percent (25%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy. These funds shall be placed in a special trust and agency account for the Department of Public Advocacy***;***[~~, and the funds shall not lapse.~~]

(c) Fifteen percent (15%) to the Kentucky State Police Forensic Laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(d) Fifteen percent (15%) to be divided among counties remitting fees during the prior quarter, with the distribution to each county equal to the proportion of fees collected by that county in relation to the total fees collected for the quarter;

(e) Fourteen and one-half percent (14.5%) to the Justice Cabinet for the enforcement of the provisions of KRS Chapter 189A;

(f) Two and one-half percent (2.5%) to the Transportation Cabinet for furnishing copies of driver history records to the courts for use in driving under the influence cases; and

(g) One percent (1%) shall be transferred to the unified prosecutorial system for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

(4) The amounts specified in subsection (3) of this section shall be placed in trust and agency accounts which shall not lapse.

Section 4. KRS 189A.105 is amended to read as follows:

(1) No person shall be compelled to submit to any test or tests specified in KRS 189A.103, but his refusal to submit to such tests shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests, the person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter; and

2. That, if a test is taken and the results indicate that the person has an alcohol concentration of ***0.08***[~~0.10~~] or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and such substance, the person shall be subject to criminal penalties and the person's driving license shall be revoked for a period of at least ninety (90) days; and

3. That the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

Section 5. KRS 189A.120 is amended to read as follows:

(1) When an alcohol concentration for a person twenty-one (21) years of age or older in a prosecution for violation of KRS 189A.010 is ***0.08***[~~0.10~~] or above, is 0.02 or above for a person under the age of twenty-one (21), or when the defendant, regardless of age, has refused to take an alcohol concentration or substance test, a prosecuting attorney shall not agree to the amendment of the charge to a lesser offense and shall oppose the amendment of the charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.

(2) A prosecuting attorney shall not amend a blood alcohol concentration, and he shall oppose the amendment of the percentage, unless uncontroverted scientific evidence is presented that the test results were in error. In the cases the prosecutor shall state his reasons for agreeing with the amendment, and the scientific data upon which the amendment was made shall be made a part of the record in this case.

(3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the court to the Justice Cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

Section 6. KRS 189.520 is amended to read as follows:

(1) No person under the influence of intoxicating beverages or any substance which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

(2) No peace officer or State Police officer shall fail to enforce rigidly this section.

(3) In any criminal prosecution for a violation of subsection (1) of this section, wherein the defendant is charged with having operated a vehicle which is not a motor vehicle while under the influence of intoxicating beverages, the alcohol concentration, as defined in KRS 189A.005, in the defendant's blood as determined at the time of making an analysis of his blood, urine, or breath, shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05, it shall be presumed that the defendant was not under the influence of alcohol;

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***[~~0.10~~], such fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant;

(c) If there was an alcohol concentration of ***0.08***[~~0.10~~] or more, it shall be presumed that the defendant was under the influence of alcohol.

(4) The provisions of subsection (3) of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages.

SECTION 7. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) Whenever a person has been charged with a violation of subsection (1) of Section 1 of this Act or KRS 281A.210, the charging officer shall take possession of any operator's license issued by the Commonwealth of Kentucky that is held by the person. The copy of the uniform citation form given to the person shall serve as a temporary permit which is valid for twenty-one (21) days or the first court appearance, whichever is later, after the date of the citation, except that no permit shall be issued if the charging officer determines and indicates on the face of his uniform citation that:

(a) The person is charged with a second or subsequent offense; or

(b) The person has refused the test under KRS 189A.103.

(2) The temporary permit shall inform the person that upon its expiration that:

(a) The person is prohibited by order of the court from operating a motor vehicle in the Commonwealth of Kentucky, or under any operator's license issued by the Commonwealth of Kentucky;

(b) A court appearance will take place within twenty-one (21) days at which hearing the court will address issues of suspension or return of the person's operator's license and driving privileges; and

(c) The person shall present proof of basic motor vehicle reparation insurance coverage to the court at that appearance.

(3) The uniform citation shall be identified as a temporary permit in such a way so that a Kentucky driver traveling out of state may use the citation as a temporary Kentucky permit in other states.

(4) When no temporary permit is issued the person shall be given notice that he is prohibited by order of the court from operating a motor vehicle in the Commonwealth of Kentucky, or under any operator's license issued by the Commonwealth of Kentucky, that a court appearance will take place within twenty-one (21) days at which time the court will address issues of suspension or return of the person's operator's license and driving privileges, and that the person shall present proof of basic motor vehicle reparation insurance coverage to the court at that appearance.

(5) The officer shall submit any seized operator's license along with a copy of any notice given to the District Court clerk along with the uniform citation form.

(6) At arraignment, or as soon as such relevant information becomes available, the court shall restore the motor vehicle operator's license and driving privileges of any person who:

(a) Provides proof that the person is a basic reparation insured under KRS 304.39-020; and

(b) Is not subject to suspension, revocation or disqualification under Section 1 of this Act or KRS 189A.060, 189A.070, 189A.200, or 281A.190.

(7) Any person whose privilege to operate a motor vehicle in the Commonwealth of Kentucky or under any operator's license issued by the Commonwealth is suspended or prohibited by the court pursuant to this chapter shall be given credit toward his suspension for the period of time prior to final disposition for which his license or operating privilege was suspended or prohibited.

(8) The court shall report to the Administrative Office of the Courts and to the Transportation Cabinet, Division of Driver's Licensing, on or within five (5) working days following January 1, April 1, July 1, and October 1 of each year the disposition of each hearing where the court addresses issues of suspension pursuant to KRS 189A.200, or return of the person's operator's license and driving privileges and the reasons for the disposition. The court shall submit the reports on a form provided by the Administrative Office of the Courts.

The Committee on Appropriations and Revenue reported **HB 65** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 65, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.180 is amended to read as follows:

(1) The fiscal court of each county having a population of three hundred thousand (300,000) or more~~[,]~~ may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate or rates not to exceed one and one-fourth percent (1.25%) of (a) salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county, and (b) the net profits of businesses, trades, professions, or occupations from activities conducted in the county. License fees imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No public service company that pays an ad valorem tax shall be required to pay a license tax, and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, ***or upon income received by precinct workers for election training or work at election booths in state, county, and local regular or special elections,*** or in other cases where the county is prohibited by law from imposing a license tax.

(2) The provisions and limitations of subsection (1) shall not apply to the license fees authorized by KRS 160.482 to 160.488.

Section 2. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more~~[,]~~ may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using,

holding, or exhibiting of any animal, article, or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.

In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:

1. For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and

2. For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities conducted in the county.

Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No[~~ such~~] license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training***, or on income received by precinct workers for election training or work at election booths in state, county, and local regular or special elections***.

(3) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee.

(4) The provisions of subsection (3) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

Section 3. KRS 91.200 is amended to read as follows:

(1) The board of aldermen of every city of the first class, in addition to levying ad valorem taxes, may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession and the using, holding, or exhibiting of any animal, article, or other thing. License fees on a business, trade, occupation, or profession for revenue purposes may be imposed at a percentage rate not to exceed those hereinafter set forth on (a) salaries, wages, commissions and other compensations earned by every person within the city for work done and services performed or rendered in the city[~~,~~] (all of such being hereinafter collectively referred to as "wages"), and (b) the net profits of all businesses, professions, or occupations from activities conducted in the city (hereinafter collectively referred to as "net profits"). Licenses imposed for regulatory purposes shall not be subject to such limitations as to form and amount. No company that pays an ad valorem tax and a franchise tax is required to pay a license tax and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky national guard for active duty training, unit training assemblies, and annual field training, ***or on income received by precinct workers for election training or work at election booths in state, county, and local regular or special elections,*** or in any other case where the city is prohibited by statute from imposing a license tax.

(2) The rate fixed on both "wages" and "net profits" shall be one and one-fourth percent (1 1/4%).

(3) License fees or taxes shall be collected by the commissioners of the sinking fund. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal indebtedness of the city on a yearly basis in accordance with regularly used amortization tables.

(4) Revenue remaining after meeting the foregoing requirements shall be transferred to the city. Such revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements.

(5) The term "capital improvements" as used in this section is limited to additions or improvements of a substantial and permanent nature and services rendered in connection therewith, and includes but is not limited to (a) the purchase of rights of way for highways, expressways***,*** and the widening of existing streets, (b) the purchase of lands for park, recreational***,*** and other governmental facilities and for public off-street parking facilities, (c) the purchase, construction, reconstruction, renovation***,*** or remodeling of municipal buildings, and facilities, (d) the replacement of machinery, wires, pipes, structural members or fixtures***,*** and other essential portions of municipal buildings, (e) the initial equipment of any newly[~~-~~]acquired facility wherein any essential governmental function of the municipality may be located or carried on, (f) the purchase and installation of traffic control devices and fire alarm equipment, (g) the reconstruction and resurfacing, but not routine maintenance, of streets and other public ways, (h) the acquisition of motorized equipment purchased as additions to, but not replacements for, existing equipment, and[~~,~~] (i) engineering and other costs incurred by the city in connection with the construction of public improvements financed under a special assessment plan.

(6) Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.

(7) Licenses shall be issued and enforced on terms and conditions as prescribed by ordinance.

Section 4. KRS 92.281 is amended to read as follows:

(1) Cities of all classes are authorized to levy and collect any and all taxes provided for in Section 181 of the Constitution of the Commonwealth of Kentucky, and to use the revenue therefrom for such purposes as may be provided by the legislative body of the city.

(2) Nothing in this section shall be construed to repeal, amend***,*** or affect in any way the provisions of KRS 243.070.

(3) This section shall not in any wise repeal, amend, affect***,*** or apply to any existing statute exempting property from local taxation or fixing a special rate on proper classification or imposing a state tax which is declared to be in lieu of all local taxation, nor shall it be construed to authorize a city to require any company that pays both an ad valorem tax and a franchise tax to pay a license tax.

(4) This section shall also be subject to the provisions of KRS 91.200 in cities of the first class having a sinking fund and commissioners of a sinking fund.

(5) License fees on businesses, trades, occupations***,*** or professions may not be imposed by a city of the sixth class at a percentage rate on salaries, wages, commissions***,*** or other compensation earned by persons for work done or services performed within said city of the sixth class nor the net profits of businesses, professions, or occupations from activities conducted in said city of the sixth class.

(6) License fees or occupational taxes may not be imposed against or collected on income received by precinct workers for election training or work at election booths in state, county, and local regular or special elections.

Section 5. KRS 92.300 is amended to read as follows:

(1) The legislative body of any city of the second to sixth class may by ordinance exempt manufacturing establishments from city taxation for a period not exceeding five (5) years as an inducement to their location in the city. In cities of the third class, two-thirds (2/3) of the members of the city legislative body must concur for this purpose.

(2) No city of the second to sixth class or urban-county government may impose or collect any license tax upon any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training***, or upon income received by precinct workers for election training or work at election booths in state, county, and local regular or special elections***.

(3) Unpaid volunteer members of fire companies in cities of the fourth class shall be exempt from city poll taxes so long as they remain active members.

Section 6. KRS 160.483 is amended to read as follows:

The license fees imposed under KRS 160.482 to 160.488 on businesses, trades, occupations, and professions shall be at a single, uniform percentage rate not to exceed one-half of one percent (0.5%) of (a) salaries, wages, and commissions, and other compensations earned by persons within the county for work done and services performed or rendered in the county, and (b) the net profits of all businesses, trades, occupations, and professions, for activities conducted in the county. The license fees, once imposed, shall continue from year to year until changed as prescribed in KRS 160.484. No public service company which pays an ad valorem tax is required to pay a license fee hereunder. No license fee shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training***, or upon income received by precinct workers for election training or work at election booths in state, county, and local regular or special elections***. No license tax shall be collected from any individual who is not a resident of the county of the tax-levying authority imposing the tax.

Section 7. KRS 160.605 is amended to read as follows:

There is hereby authorized the levy of an occupational license tax for schools on salaries, wages, commissions, and other compensation of individuals for work done and services performed or rendered in a county and on the net profits of all businesses, professions, or occupations from activities conducted in a county. No public service company which pays an ad valorem tax is required to pay an occupational license tax for schools. No occupational license tax for schools shall be imposed upon or collected from any insurance company, bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered, or upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training***, or upon income received by precinct workers for election training or work at election booths in state, county, and local regular or special election***.

Section 8. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1995, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

    (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

    (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

    (c) Include interest income derived from obligations of sister states and political subdivisions thereof;

    (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

    (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

    (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

    (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

    (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;~~[and]~~

    (i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

        2. The "applicable amount" shall be:

            a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code***; and***

(j) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local regular or special elections.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income," in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial

qualification under Subchapter S of the Internal Revenue Code Sections.

Section 9. The provisions of this Act apply to tax years beginning after December 31, 1997.

The Committee on Tourism Development and Energy reported **HB 560,** with Committee Amendments attached thereto, **HB 582,** with Committee Substitute and Committee Amendment attached thereto, and **HB 643,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 560, AN ACT relating to telecommunications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.750 is amended to read as follows:

As used in ***this section to*** KRS[~~ 65.755 and~~] 65.760***:***[~~,~~]

(1) "911 Emergency Telephone Service" means a telephone service which provides the user of the public telephone system the ability to reach local emergency service agencies on a twenty-four (24) hour basis, by dialing the digits 9-1-1. Such a service is capable, at minimum, of transmitting requests for law enforcement, firefighting, and emergency medical and ambulance services to a public safety agency or other provider that provides the requested service at the place where the call originates. A 911 emergency telephone service may also provide for other emergency services***;***

(2) "Automatic number identification (ANI)" means a feature that allows for the automatic display of the ten (10) digit number used to place a 911 call;

(3) "Automatic location identification (ALI)" means a feature by which the name and address associated with the calling party's telephone number is made available to a PSAP;

(4) "Automatic location identification data management system (ALI/DBS)" means a system of manual procedures and computer programs used to create, store, and update the data required for ALI in support of enhanced 911;

(5) "Dispersed private telephone system (DPTS)" means a multi-line telephone system, including a PBX, whose connection to the telephone network is capable of carrying emergency calls from more than one (1) specific location within a structure or structures;

(6) "Enhanced 911 emergency telephone service" means a telephone network feature that automatically provides public service answering points (PSAPs) with ANI and ALI information on calls placed to the national 911 emergency number;

(7) "Private branch exchange (PBX)" means a privately owned switch system that connects calls to a telephone company;

(8) "Public Safety Answering Point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies;

(9) "Service supplier" means a person or entity that administers, maintains, and operates the ALI/DBS and may include telephone companies that provide local exchange telephone service to a telephone subscriber; and

(10) "Station identification number (SIN)" means a number that a DPTS uses to identify a specific station on the switch.

SECTION 2. A NEW SECTION OF KRS 65.750 TO 65.760 IS CREATED TO READ AS FOLLOWS:

(1) Any DPTS located in an area that has adopted enhanced 911 emergency service shall within three (3) years of the date of its adoption, or if already adopted within three (3) years after the effective date of this Act, be able to:

(a) Operate effectively within an enhanced 911 system;

(b) Transmit a SIN for the station that directly dials the emergency number 911 to the service supplier; and

(c) Provide the service supplier with the following system information that shall be immediately updated if changes occur within the system:

1. Number of trunk connections on the system; and

2. Number, specific location, and identification of stations that may originate emergency calls.

(2) In areas where enhanced 911 service has been implemented, the service provider shall, at a minimum, make the ANI and ALI available to a PSAP for an enhanced 911 call.

(3) In areas where enhanced 911 service has been implemented, the service supplier shall maintain the confidentiality and privacy of all information contained in the ALI/DBS, including any information that identifies telephone calls made from extensions on DPTS, except when the release of the information is ordered by a court of competent jurisdiction.

SECTION 3. A NEW SECTION OF KRS 65.750 TO 65.760 IS CREATED TO READ AS FOLLOWS:

(1) Any owner, employee, or agent of a DPTS that knowingly or wantonly violates the provisions of subsection (2) of Section 2 of this Act shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or imprisoned in the county jail for not more than ninety (90) days, or both. Each day the violation continues shall be considered a separate offense.

(2) Any owner, employee, or agent of a DPTS or a service supplier that violates the provisions of subsection (3) of Section 2 of this Act shall be subject to the following penalties:

(a) For a first offense, a Class A misdemeanor; and

(b) For a second and subsequent offense, a Class D felony.

Section 4. KRS 65.760 is amended to read as follows:

(1) Any city, county, or urban-county government may establish 911 emergency telephone service upon approval of the governing body of the city, county, or urban-county government, and may adopt regulations concerning the provision of this service by ordinance.

(2) Any city, county, or urban-county government, or any combination thereof, may with the approval of their governing bodies enter into an interlocal cooperation agreement creating a joint 911 emergency telephone service.

(3) The funds required by a city, county, or urban-county government to establish and operate 911 emergency telephone service, or to participate in joint service with other local governments, may be obtained through the levy of any special tax, license, or fee not in conflict with the Constitution and statutes of this state. The special tax, license, or fee may include a ***subscriber*** charge ***for 911 emergency telephone service that shall be levied on an individual exchange-line basis, limited to a maximum of twenty-five (25) exchange lines per PSAP jurisdiction. Any private commercial telephone service or owner of a dispersed private telephone system (DPTS) that provides local and 911 emergency service to subscribers for compensation shall collect and remit the subscriber charge to the local government on the same basis as the primary local exchange carrier***[~~to be collected from local exchange telephone subscribers in the area to be served by 911 service on an individual exchange line basis limited to a maximum of twenty five (25) exchange lines per account~~]. All revenues from a tax or fee expressly levied to fund 911 emergency services shall be expended solely for ***the establishment, operation, and maintenance of a 911 emergency communications system; this may include expenditures to train communications personnel and to inform the public of the availability and proper use of 911 service***[~~this purpose~~].

(4) The governing body may apply for and accept federal moneys, and may accept contributions and donations from any source for the purpose of funding 911 emergency telephone service.

(5)[~~(4)~~] Nothing in this section shall preclude other means of establishing or funding a 911 emergency telephone service within any local area or exchange, nor require the operation of such service by any local government.

The Committee Amendment No. 1 to **HB 560** is as follows:

On page 3, after line 4, by adding

"***(4) This section shall not apply to a state agency that currently maintains an independent 911 system with its own public safety answering point.***"; and

on page 4, line 8, after "***carrier***" by adding "***, except that this requirement shall not apply to a state agency that currently maintains an independent 911 system with its own public safety answering point***"

The Committee Amendment No. 2 to **HB 560** is as follows:

on page 1, line 11, after "***digit number***" by adding "***, or equivalent,***"; and

on line 22, between "***"*** and "***Enhanced***" by inserting "***Fully***", and by beginning "***Enhanced***" with a small ***e***; and

on line 23, by deleting everything after "***feature that***" and by replacing it with "***selectively routes***"; and

on line 24, by deleting "***ANI and ALI information on***", and after "***number***" by adding "***to the proper public service answering points (PSAPs) and provides the PSAP with a voice connection and ANI and ALI information***"; and

on page 2, line 20, by deleting "***immediately***", and after "***updated***", by adding "***within five (5) business days***"; and

line 21, by inserting "***incoming***" between "***of***" and "***trunk***", and

on line 21, by deleting "***on the***" and replacing it with "***to the E911***"; and

on line 22, after "***2.***" by deleting the rest of line 22 and deleting line 23 in its entirety, and inserting in its stead "***SIN, sublocation, such as floor or apartment number, if applicable, and street address of each station that may originate an***

emergency call."; and

on page 2, line 24, before "***enhanced***" by inserting "***fully***", and by deleting "***provider***" and inserting "***supplier***" in its stead; and

on line 25, by inserting "***verified***" in front of "***ANI and ALI***", and by inserting "***provided by the DPTS***" after "***ANI and ALI***"; and

on line 25, by changing the last word from "***an***" to "***a***"; and

on line 26, by adding "***fully***" before "***enhanced***"; and

on line 27, by adding "***fully***" before "***enhanced***"; and

on page 3, after line 4, by adding:

"***(4) In areas where enhanced 911 service has been implemented, an employee of a PSAP shall not retrieve or disclose ALI information except in response to a 911 call or for the purpose of maintaining the ALI database, unless ordered by a court of competent jurisdiction.***"; and

on page 4, line 4, by deleting "***PSAP jurisdiction***" and by adding in its stead "***account per government entity***"

HB 582, AN ACT relating to the unauthorized switching of a customer's telecommunications provider.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "telecommunications provider" or "provider" means a person that provides one (1) or more telecommunications services for compensation, and includes a provider of regulated and unregulated intrastate services offered to customers for the transmission of two-way, interactive communications.

(2) A customer of a telecommunications provider shall not be switched to another provider without the written authorization of the customer, indicating that the customer knowingly approved the specific details of the switch. When a customer's service is changed, the new provider shall maintain a record of nonpublic customer-specific information that establishes that the customer authorized the change. To the extent that verification rules are established by the Federal Communications Commission, telecommunications providers shall meet the Federal Communications Commission verification requirements. In any dispute, the burden of proof to show that the customer knowingly authorized the change shall be on the provider that brought about the switch.

(3) If a telecommunications provider initiates a switch of provider that the customer does not want, that provider, upon request by the customer within ninety (90) days after the switch becomes effective, shall reverse the change within five (5) business days.

(4) The customer subjected to a change that is not in writing or is not made or verified consistent with this section or administrative regulations adopted under this section is not responsible for any charges associated with the unauthorized change, including charges for usage subsequent to the change, if the customer contacts, in writing, the customer's local exchange carrier, the customer's previous provider of intrastate service, or the telecommunications provider that initiated an unauthorized change in service within thirty (30) days after receipt of the customer's first bill containing charges by the telecommunications provider that initiated the unauthorized change. A telecommunications provider that has initiated an unauthorized customer change shall:

- *(a) Pay all charges associated with returning the customer to the customer's original telecommunications provider;*
- *(b Return to the customer any amount paid to the provider by the customer or on the customer's behalf; and*
- *(c) Upon request, provide all billing records to the original provider from which the customer was changed to enable the original provider to comply with this section.*

The telecommunications provider that initiated the unauthorized change is responsible for any payment to access providers or to an underlying carrier where applicable. Failure of the customer to provide timely notice will relieve the telecommunications provider that initiated the unauthorized change of any obligations under this subsection.

(5) If the commission finds that a provider has willfully or repeatedly violated this section or an administrative regulation promulgated under it, the commission shall order the provider to take corrective action as necessary. The commission may impose a penalty on the violator as specified in KRS 278.990 (1) and may, if consistent with the public interest, suspend, restrict, or revoke any certificate or registration of the telecommunications provider, thereby denying the provider the authorization to provide telecommunications service in the Commonwealth. The commission also may order the violator pay a penalty, not to exceed five thousand dollars ($5,000), to the customers' original provider.

(6) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the

policies of this section.

The Committee Substitute to **HB 582** is as follows:

AN ACT relating to the unauthorized switching of a customer's telecommunications provider.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "telecommunications provider" or "provider" means a person that provides one (1) or more telecommunications services for compensation, and includes a provider of regulated and unregulated intrastate services offered to customers for the transmission of two-way, interactive communications. "Telecommunications provider" or "provider" does not include a provider of commercial mobile radio services as defined in 47 U.S.C. sec. 332(d)(1).

(2) A customer of a telecommunications provider shall not be switched to another provider without the written or electronically recorded authorization of the customer, indicating that the customer knowingly approved the specific details of the switch. When a customer's service is changed, the new provider shall maintain for one (1) year a record of nonpublic customer-specific information that establishes that the customer authorized the change. In any dispute, the burden of proof to show that the customer knowingly authorized the change shall be on the provider that claims to have obtained customer authorization for the switch.

(3) If a telecommunications provider initiates a switch of provider that the customer has not authorized under this section, that provider, upon request by the customer, shall reverse the change within five (5) business days.

(4) The customer subjected to a change that is not verified consistent with this section or administrative regulations promulgated under this section is not responsible for any charges associated with the unauthorized change, including charges for usage subsequent to the change, if the customer contacts the customer's local exchange carrier, the customer's previous provider of intrastate service, or the telecommunications provider that initiated an unauthorized change in service within one hundred eighty (180) days after receipt of the customer's first bill containing charges by the telecommunications provider that initiated the unauthorized change. A telecommunications provider that has initiated an unauthorized customer change shall:

- *(a) Pay all charges associated with returning the customer to the customer's original telecommunications provider;*
- *(b) Return to the customer any amount paid to the provider by the customer or on the customer's behalf; and*
- *(c) Upon request, provide all billing records to the original provider from which the customer was changed to enable the original provider to comply with this section.*

The telecommunications provider that initiated the unauthorized change is responsible for any payment to access providers or to an underlying carrier where applicable. Failure of the customer to provide timely notice will relieve the telecommunications provider that initiated the unauthorized change of any obligations under this subsection.

(5) If the commission finds that a provider has willfully or repeatedly violated this section or an administrative regulation promulgated under it, the commission shall order the provider to take corrective action as necessary. The commission may impose a penalty on the violator as specified in KRS 278.990 (1), except that the maximum civil penalty to be assessed for each violation of this section shall be ten thousand dollars ($10,000). The commission also may, if consistent with the public interest, suspend, restrict, or revoke any certificate or registration of the telecommunications provider, thereby denying the provider the authorization to provide telecommunications service in the Commonwealth.

(6) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the policies of this section.

The Committee Amendment No. 1 to the Committee Substitute to **HB 582** is as follows:

On page 1, line 5, after "***compensation,***" by adding "***and its successors in interest by way of acquisition or merger,***"

HB 643, AN ACT relating to the scenic and recreational trails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.660 is amended to read as follows:

The commissioner shall study and from time to time submit to the Governor ***and the General Assembly*** proposals for additions to the state scenic trails system~~[, as well as reports on state]~~ ***and*** recreation trails that have been designated by the department, regarding rights-of-way that have been established and on the program for implementing KRS 148.610 to 148.780. Each proposal shall include a short statement on the significance of the various trails to the system.

Section 2. KRS 148.690 is amended to read as follows:

(1) The department shall review all formal declarations of railroad right-of-way abandonments by the ***Surface Transportation Board or other agency with jurisdiction***~~[Interstate Commerce Commission]~~ ***and may review former railroad corridors*** for possible inclusion in the state trails system. The commissioner shall, within three (3) years after the route of a trail or trail segment included in the system has been located, determine the boundaries of the right-of-way to be associated with that trail. Such boundaries shall be established in such a manner that they protect the scenic value of the trail.

(2) The commissioner is authorized to develop effective procedures to assure that, wherever practicable, utility rights-of-way***, abandoned railroad corridors,*** or similar properties having value for trail purposes may be made available for such use. Other departments of state government having jurisdiction, control over, or information concerning the use, abandonment, or disposition of rights-of-way***, railroad corridors,*** and similar properties that may be suitable for trail purposes shall cooperate with the commissioner in the transfer of these rights for trail use.

Section 3. KRS 148.750 is amended to read as follows:

The Kentucky Trails System shall be administered by the department according to the policies and criteria set forth in KRS 148.610 to 148.780. The department shall have the responsibility for maintaining the trails and building bridges, campsites, shelters, and related public-use facilities where required. ***The department shall establish a trails coordinator to carry out the purposes of KRS 148.610 to 148.780.***

SECTION 4. A NEW SECTION OF KRS 148.610 TO 148.780 IS CREATED TO READ AS FOLLOWS:

The department shall coordinate its efforts with and work with the Transportation Cabinet in so far as the provisions of KRS 148.610 to 148.780 and the provisions of KRS 174.100, 174.120, and 174.125 can be used to develop bicycling opportunities in the state.

The Committee Amendment No. 1 to **HB 643** is as follows:

On page 1, line 19, after "such use" by adding "***;however, the commissioner shall take into consideration the rights of adjacent property owners in the development of any such procedures***".

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 85**, by Representative Nunn:

On page 2, lines 16 through 27, through page 3, lines 1 through 8, by deleting all the language in its entirety, and by inserting in lieu thereof, the following:

"***(1) In addition to the other requirements of this section, a woman upon whom an abortion is to be performed or induced shall:***

(a) Appear in person to schedule an appointment for an abortion and receive the information specified in subsection (3) of this section, in which case the abortion shall not be scheduled until twenty-four (24) hours have elapsed from the time that she leaves the facility; or

(b) Otherwise schedule an appointment, receive the information specified in subsection (3) of this section, and request that written materials be mailed to her, in which case the abortion shall not be scheduled until twenty-four (24) hours have elapsed from the day on which she receives the written materials. The facility shall mail out all requested information and materials within twenty-four (24) hours of the request for the mailing of the materials.

(2) No abortion shall be performed or induced except with the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Informed consent means that a woman documents that she is aware of the risks involved with the procedure, the alternatives available to her, or has voluntarily chosen to review written materials, as prepared by the Cabinet for Human Resources as outlined in subsection (5).

(3) The information and materials available to a woman who chooses to have an abortion performed or induced and which shall be made available through any licensed physician, licensed social worker, licensed advanced registered nurse practitioner or physician assistant, or any licensed registered nurse, at least twenty-four (24) hours prior to the abortion being performed or induced, shall include:

(a) The nature and purpose of the particular abortion procedure or treatment to be performed and the medical risks and alternatives to the procedure or treatment that a reasonable person would consider material to the decision of whether or not to undergo the abortion;

(b) The possible eligibility for medical assistance benefits which may be available for prenatal care, childbirth and neonatal care, and detailed information on the availability of those services; and

(c) The requirement that the father of a fetus is liable to assist in any support, even in instances where he has offered to pay for the abortion.

(4) Prior to the performance or inducement of an abortion, the physician scheduled to perform or induce the abortion shall require documentation as specified in subsection (2) of this section from the pregnant woman."; and

On page 4, line 9, by deleting "***(2)***", and by inserting in lieu thereof, "***(5)***"; and

On page 5, line 14, by deleting "***(3)***", and by inserting in lieu thereof, "***(6)***"; and

On page 5, line 21, by deleting "***(4)***", and by inserting in lieu thereof, "***(7)***"; and

On page 5, line 27, by deleting "***(1)***", and by inserting in lieu thereof, "***(2)***"; and

On page 6, line 1, by inserting after the word, "***enter***", the following: "***in the client's medical record***"; and

On page 6, line 3, by deleting "***(5)***", and by inserting in lieu thereof, "***(8)***"; and

On page 6, line 3, by deleting "***(1)***", and by inserting in lieu thereof, "***(2)***"; and

On page 6, line 4, by deleting the words "***and effective***"; and

On page 6, line 5, by deleting "***(6)***", and by inserting in lieu thereof, "***(9)***"; and

On page 6, line 5, by deleting "***(1)***", and by inserting in lieu thereof, "***(2)***"; and

On page 6, line 7, by deleting "***311.595***", and by inserting in lieu thereof "***311.595(3)***".

House Floor Amendment No. 1 to **SB 54**, by Representative Napier:

On page 3, line 7 after the word "***every***" by inserting the word "***paid***"; and

On page 3, line 7 after the word "***daily***" by inserting the words "***and weekly***".

Report On Enrolled Bills

HJR 58 delivered to the Senate and signed by the President. Delivered to the Governor on March 4, 1998 at 2:20 p.m.

Calendar

HB 206, HB 128, HB 255, HB 434, HB 618, HB 621, HB 677, HB 679, HB 13, HB 324, SB 264, HB 460, HB 562, HB 633, HB 639, HCR 81, SB 33, SB 54, SB 139, HB 371 and **HB 488** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 20** and **SB 169** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:28 p.m.)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 488**, by Representative Scott:

On page 3, line 14, after "***February***" by inserting "***15***"; and by removing the closing bracket from "[~~March~~]" and continuing the strike-throughs through "1" and by placing a closing bracket after "1".

Floor Amendment No. 2 to **HB 211**, by Representative Nunn:

On page 1, line 4, after "***intake***" by inserting "***unless an extension of the area of prohibition is requested and granted***

under subsection (3) of this section"; and

after line 7, by inserting:

"***(3) The division shall allow water supply systems with intakes on lake waters of this state to request that the prohibition on mooring or anchoring be extended beyond one hundred (100) feet but no farther than three hundred (300) feet. The division may grant a request if the water supply system demonstrates circumstances that justify extending the area of prohibition. The division shall inform the Department for Fish and Wildlife Resources when a request to extend an area of prohibition is granted.***

(4) Private or commercial docks in existence on the effective date of this Act shall be exempt from the provisions of subsection (1) if this section.".

Floor Amendment No. 1 to **HB 425**, by Representative Lindsay:

On Page 1, line 15, by bracketing and striking through the words "[~~of approval or disapproval~~]"; and

On Page 1, line 16, after the word "to" by inserting and underlining "***approve the planning commission's recommendation,***"; and

On that same line and continuing on to line 17, by bracketing and striking through the words, "[~~override the recommendation of the planning commission~~]"; and

On Page 1, lines 18 through 25, after the word "amendment" by inserting opening brackets and striking through the remainder of that line and continuing on until the end of the page and placing closing brackets after the word "law."; and

On Page 3, after line 20, by inserting the following new section,

"Section 2. The following KRS section is repealed:

100.2111 Alternative regulation for zoning map amendment.".

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 155, HB 372, HB 454, HB 593, HB 598, HB 625, HB 636, HB 645, HB 655, HB 656, HB 627, HB 128, HB 371, HB 488, HB 618, HB 621, HB 633, HB 679** and **HB 639** have been posted for passage in the Orders of the Day for March 5, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 450, HB 563, HB 255, HB 324, HB 677**

Orders of the Day

HB 51, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of Committee Amendment No. 1 to **HB 51**. Agreed.

Representative Ballard moved that **HB 51**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 4, 1998 roll call on **HB 51** - Appendix.) **HB 51**, as amended, was passed. Representative Ballard moved the adoption of Committee Amendment No. 2 Title to **HB 51**. Agreed; and the title was agreed to. Representative Ballard moved that the vote by which **HB 51**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 636**, by Representative Anderson:

On page 5, line 22, after "***way***" by inserting "***, except that waste tires stored uncovered on the effective date of this Act shall be exempt from the requirements of this paragraph***".

House Floor Amendment No. 1 to **SB 135**, by Representative Damron:

On page 1, line 22, by deleting all material on the line after "***(d)***" and inserting in lieu thereof "***General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and***"; and

On page 1, after line 23, by inserting:

"***(2) The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider.***"; and

On page 1, line 24, by deleting "***(2)***" and inserting "***(3)***".

Orders of the Day (Continued)

HB 654, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **HB 654** be passed.

On the roll call the vote was: Yeas 58, Nays 29 (See March 4, 1998 roll call on **HB 654** - Appendix.) **HB 654** was passed and the title agreed to. Representative R. Adams moved that the vote by which **HB 654** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 468 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HB 468** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 4, 1998 roll call on **HB 468** - Appendix.) **HB 468** was passed and the title agreed to. Representative Worthington moved that the vote by which **HB 468** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 48, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Murgatroyd moved the adoption of the Committee Substitute to **HB 48**. Agreed. Representative Murgatroyd moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 48**. Agreed.

Representative Murgatroyd moved that **HB 48**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 10 (See March 4, 1998 roll call on **HB 48** - Appendix.) **HB 48**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Murgatroyd moved that the vote by which **HB 48**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 115, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of the Committee Substitute to **HB 115**. Agreed.

Representative Coleman moved that **HB 115**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 4, 1998 roll call on **HB 115** - Appendix.) **HB 115**, by way of Committee Substitute, was passed and the title agreed to. Representative Coleman moved that the vote by which **HB 115**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 498 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pope moved that **HB 498** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 4, 1998 roll call on **HB 498** - Appendix.) **HB 498** was passed and the title agreed to. Representative Pope moved that the vote by which **HB 498** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 510, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of the Committee Substitute to **HB 510**. Agreed.

Representative Hoffman moved that **HB 510**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 4, 1998 roll call on **HB 510** - Appendix.) **HB 510**, by way of Committee Substitute, was passed and the title agreed to. Representative Hoffman moved that the vote by which **HB 510**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 610 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 610** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 4, 1998 roll call on **HB 610** - Appendix.) **HB 610** was passed and the title agreed to. Representative Kerr moved that the vote by which **HB 610** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 680 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **HB 680** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 4, 1998 roll call on **HB 680** - Appendix.) **HB 680** was passed and the title agreed to. Representative McKee moved that the vote by which **HB 680** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 23 to the Committee Substitute No. 2 to **HB 74**, by Representative Ratliff:

On page 5, line 23, after the comma "***,***" delete the word "***including***" and insert in lieu thereof "***excluding***"; and

On page 7, line 15, after the comma "***,***" delete the remainder of the line in its entirety and insert in lieu thereof "***excluding any trade-in allowance;***"; and

On page 7, lines 16 and 17, delete lines 16 and 17 in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 537**, by Representative Wilkey:

On page 1, line 14, following the word "***outcome.***" to insert the following:

"***For the purposes of this subparagraph, "employee" or "relative" shall not include an employee or relative of the attorney or one of the parties.***".

Floor Amendment No. 1 to the Committee Substitute to **HB 627**, by Representative Walton:

On page 1, line 19 by deleting "***rewards***" and inserting "***distinguished***" in lieu thereof;

On page 1, line 21 by deleting "***rewards***" and inserting "***distinguished***" in lieu thereof;

On page 1, line 24 by deleting "***rewards***" and inserting "***distinguished***" in lieu thereof;

On page 2, line 13 by deleting "***Rewards***" and inserting "***Distinguished***" in lieu thereof;

On page 3, line 7 by deleting" ***"reward"*** " and inserting " ***"distinguished"*** " in lieu thereof;

On page 7, line 4 by deleting "***distributing of rewards and***" and inserting "***imposing***" in lieu thereof;

On page 20, line 9 after "(2)" by inserting "***On the effective date of this Act,***" and make the initial letter of "The" lower case;

On page 20, line 10 after "shall" by inserting "***transfer***" and by placing an opening bracket "[" in front of "issue;

On page 20, line 11 by deleting "***school district on behalf of the***" and "***when the following***";

On page 20, by deleting all new and underlined language on lines 12 through 25 and by placing a closing bracket "]" after the period "." on line 25, and by striking through all language in between the "[" on page 20, line 10, and the "]" on page 20, line 25;

On page 20, line 26 by deleting "***(3)***" and making the initial letter of the word "All" to lower case;

On page 20, line 26 after "interest" by inserting "***to the School Facilities Construction Commission to be used for its purposes under KRS 157.611***";

On page 20, line 26 by placing an opening bracket "[" in front of the second comma ",";

On page 21, line 1 by placing a closing bracket "]" after "budget", and by striking through all language in between the "[" on page 20, line 26, and the "]" on page 21, line 1;

On page 25, line 14 by placing brackets around and striking-through "and dispensing appropriate rewards"

On page 25, line 22 by deleting "***rewards***" and inserting "***distinguished***" in lieu thereof;

On page 26, line 7 by deleting "***reward***" and inserting "***distinguished***" in lieu thereof;

On page 26, line 8 by deleting "***reward***" and inserting "***distinguished***" in lieu thereof;

On page 26, line 9 after "***school***" by inserting "***shall not be***" and by deleting " ***"reward"*** " and inserting " ***"distinguished school"*** " in lieu thereof;

On page 26, line 9 by deleting "***shall not receive a financial award***";

On page 26, line 10 by deleting "***Distribution of rewards***";

On page 26 by deleting line 11 and the new and underlined language on line 12;

On page 26, line 12 by removing the brackets and strike-throughs and placing an opening bracket "[" before "Rewards";

On page 26, by deleting all new and underlined language on lines 13 through 17;

On page 26 by deleting the opening bracket "[" on line 17 and the closing bracket"]" on line 19 and all strike-throughs in between the brackets;

On page 26, line 21 by deleting the opening bracket "[" and on page 27, line 10 by deleting the closing bracket "]" and removing all strike-throughs in between;

On page 27, line 11 by deleting "***staff; and***";

On page 27, on line 11 by placing a closing bracket "]" after "school" and striking-through all language in between;

On page 27, line 12 by changing "***(g)***" to "***(f)***";

On page 27, line 13 after "***classified***" by inserting "***as distinguished***";

On page 32, line 13 by deleting "***reward***" and inserting "***identify distinguished***" in lieu thereof;

On page 32, line 14 by deleting "***reward***" and inserting "***distinguished***" in lieu thereof;

On page 34, line 23 by deleting "***rewards***" and inserting "***distinguished***" in lieu thereof;

On page 37, line 27 by placing an opening bracket "[" in front of "If";

On page 38, line 1 by deleting "***rewards***" and by removing the brackets and strike-throughs;

On page 38, line 2 by removing the bracket and strike-through;

On page 38, line 3 by removing the bracket and strike-through;

On page 38, line 4 by removing the brackets and strike-throughs from "(1)(g)";

On page 38, line 4 by placing a closing bracket after the period "." and striking-through all language in between the "[" on page 26, line 12, and the "]" on page 27, line 11;

On page 43, line 20 by deleting "following rewards and";

On page 43, line 22 after "(1)" by deleting lines 22 through 27 in their entirety;

On page 44, by deleting lines 1 through 4 in their entirety;

On page 44, line 5 by deleting "(2)"; and

On page 44, line 8 by changing "(3)" to "(2)".

Orders of the Day (Continued)

HB 637, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 637**. Agreed.

Representative Marzian moved that **HB 637**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 4, 1998 roll call on **HB 637** - Appendix.) **HB 637**, by way of Committee Substitute, was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 637**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 79, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HCR 79**. Agreed.

Representative Marzian moved that **HCR 79**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 76, Nays 14 (See March 4, 1998 roll call on **HCR 79** - Appendix.) **HCR 79**, by way of Committee Substitute, was adopted. Representative Marzian moved that the vote by which **HCR 79**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 491, with Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of Floor Amendment No. 5 to **HB 491**. Agreed.

Representative Riggs moved that **HB 491** be passed.

Representative Ford moved that the vote by which Floor Amendment No. 5 to **HB 491** was adopted be reconsidered.

On the roll call that the vote by which Floor Amendment No. 5 to **HB 491** was adopted be reconsidered the vote was: Yeas 64, Nays 25 (See March 4, 1998, roll call on **HB 491** - Appendix.) The motion that the vote by which Floor Amendment No. 5 to **HB 491** was adopted be reconsidered was adopted.

Representative Ford moved that Floor Amendment No. 5 to **HB 491** be removed. On the roll call that Floor Amendment No. 5 to **HB 491** be removed the vote was: Yeas 62, Nays 24 (See March 4, 1998, roll call on **HB 491** - Appendix.) The motion that Floor Amendment No. 5 to **HB 491** be removed was adopted.

Representative Riggs moved that **HB 491** be passed.

On the roll call the vote was: Yeas 52, Nays 44 (See March 4, 1998 roll call on **HB 491** - Appendix.) **HB 491** was passed and the title agreed to. Representative Riggs moved that the vote by which **HB 491** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 99** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:05 p.m.)

HB 99 delivered to the Senate and signed by the President. Delivered to the Governor on March 4, 1998 at 4:13 p.m.

Orders of the Day (Continued)

HB 521, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 521** be placed back in the Orders of the Day. Agreed.

HB 548 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crall moved that **HB 548** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 4, 1998 roll call on **HB 548** - Appendix.) **HB 548** was passed and the title agreed to. Representative Crall moved that the vote by which **HB 548** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 629 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 629** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 4, 1998 roll call on **HB 629** - Appendix.) **HB 629** was passed and the title agreed to. Representative Collins moved that the vote by which **HB 629** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 471, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute to **HB 471**. Agreed.

Representative Stein moved that **HB 471**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 2 (See March 4, 1998 roll call on **HB 471** - Appendix.) **HB 471**, by way of Committee Substitute, was passed and the title agreed to. Representative Stein moved that the vote by which **HB 471**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed. Representative Stumbo moved that the clincher motion on **HB 471** be removed. Agreed. Representative Stein moved the adoption of Committee Amendment No. 1 Title to **HB 471**. Agreed; and the title was agreed to. Representative Stein moved that the vote by which **HB 471**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 414, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of Committee Amendment No. 1 to **HB 414**. Agreed. Representative Gooch moved the adoption of Floor Amendment No. 1 to **HB 414**. Agreed. Representative Gooch moved the adoption of Floor Amendment No. 2 to **HB 414**. Agreed. Representative Gooch moved that **HB 414**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 4, 1998 roll call on **HB 414** - Appendix.) **HB 414**, as amended, was passed and the title agreed to. Representative Gooch moved that the vote by which **HB 414**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 644, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 644**. Agreed. Representative Barrows moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 644**. Agreed.

Representative Barrows moved that **HB 644**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 4, 1998 roll call on **HB 644** - Appendix.) **HB 644**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Barrows moved that the vote by which **HB 644**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 149 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 149** be passed.

On the roll call the vote was: Yeas 88, Nays 3 (See March 4 , 1998 roll call on **SB 149** - Appendix.) **SB 149** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 149** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 150 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 150** be passed.

On the roll call the vote was: Yeas 88, Nays 1 (See March 4, 1998 roll call on **SB 150** - Appendix.) **SB 150** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 150** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 152 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 152** be passed.

On the roll call the vote was: Yeas 84, Nays 7 (See March 4, 1998 roll call on **SB 152** - Appendix.) **SB 152** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 152** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 153 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 153** be passed.

On the roll call the vote was: Yeas 82, Nays 7 (See March 4, 1998 roll call on **SB 153** - Appendix.) **SB 153** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 153** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 156 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 156** be passed.

On the roll call the vote was: Yeas 87, Nays 5 (See March 4, 1998 roll call on **SB 156** - Appendix.) **SB 156** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 156** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 158 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 158** be passed.

On the roll call the vote was: Yeas 92, Nays 2 (See March 4, 1998 roll call on **SB 158** - Appendix.) **SB 158** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 158** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 162 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 162** be passed.

On the roll call the vote was: Yeas 64, Nays 30 (See March 4, 1998 roll call on **SB 162** - Appendix.) **SB 162** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 162** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 627**, by Representative Bailey:

On page 12, lines 24 and 25 by deleting "***,including strategies to integrate writing portfolio entry development with content instruction***";

On page 22, line 17 after "*(c)*" by deleting all new and underlined language through "*(d)*" on line 24;

On page 22, line 27 by changing "*(e)*" to "*(d)*";

On page 24, line 9 after "*(6)*" by inserting the following:

"***The assessment program shall not include writing portfolios consisting of samples of student work for accountability purposes. Local school districts may require, for instructional purposes only, no more than two (2) on-demand pieces of student writing annually in grades the district may determine.***

(7) "; and

On page 24, line 14 by changing "*(7)*" to "*(8)*".

Orders of the Day (Continued)

SB 173 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 173** be passed.

On the roll call the vote was: Yeas 89, Nays 2 (See March 4, 1998 roll call on **SB 173** - Appendix.) **SB 173** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 173** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 174 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 174** be passed.

On the roll call the vote was: Yeas 85, Nays 8 (See March 4, 1998 roll call on **SB 174** - Appendix.) **SB 174** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 174** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 175 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 175** be passed.

On the roll call the vote was: Yeas 86, Nays 7 (See March 4, 1998 roll call on **SB 175** - Appendix.) **SB 175** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 175** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 176 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 176** be passed.

On the roll call the vote was: Yeas 87, Nays 5 (See March 4, 1998 roll call on **SB 176** - Appendix.) **SB 176** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 176** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 190 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 190** be passed.

On the roll call the vote was: Yeas 73, Nays 16 (See March 4, 1998 roll call on **SB 190** - Appendix.) **SB 190** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 190** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 178 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 178** be passed.

On the roll call the vote was: Yeas 82, Nays 13 (See March 4, 1998 roll call on **SB 178** - Appendix.) **SB 178** was passed and the title agreed to. Representative Stumbo moved that the vote by which **SB 178** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 389, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Stumbo moved that the motion that **HB 389** be taken from the Orders of the Day be withdrawn. Agreed.

HB 198, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 198** is as follows:

On page 5, line 1, after "***lease***" by inserting "***originating***".

Representative Long moved that the House concur in Senate Committee Amendment No. 1 to **HB 198**. Agreed.

Representative Long moved that **HB 198**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 3 (See March 4, 1998 roll call on **HB 198** - Appendix.) **HB 198**, as amended by the Senate, was passed and the title agreed to. Representative Long moved that the vote by which **HB 198**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 199, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 199** is as follows:

On page 7, line 12 by bracketing and striking through "and"; and

On page 7, line 15, after "365.800" by inserting the following: "***and;***

(18) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220".

Representative Long moved that the House concur in Senate Floor Amendment No. 1 to **HB 199**. Agreed.

Representative Long moved that **HB 199**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 91, Nays 1 (See March 4, 1998 roll call on **HB 199** - Appendix.) **HB 199**, as amended by the Senate, was passed and the title agreed to. Representative Long moved that the vote by which **HB 199**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 4, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 4** is as follows:

On page 10, line 8, after "Section 11." by inserting "KRS 211.981 is amended to read as follows:

(1) All sewage or sewage sludge hauled pursuant to the provisions of KRS 211.970 to 211.982 shall be disposed of ***by landspreading at an approved site or*** in a publicly-owned sewage treatment plant, unless it is demonstrated to the satisfaction of the cabinet that a publicly-owned sewage treatment plant does not exist within a reasonable hauling distance from the site at which the sewage or sewage sludge is received, or the publicly-owned sewage treatment plant refuses to accept the sewage or sewage sludge.

(2) If the cabinet determines that no publicly-owned sewage treatment plant is available for use by a licensed hauler, the cabinet may approve an alternative mode of disposal including, but not limited to, landspreading. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A governing landspreading and other acceptable modes of disposal which insure:

(a) That no contamination threat is posed to surface waters from any run-off; and

(b) That all reasonable protection is afforded to prevent contamination of groundwater.

(3) Trenching of sewage and sewage sludge shall be prohibited except where specifically authorized by the cabinet.

Section 12." and

On line 14, by changing "12" to "13".

Representative Nunn moved that the House concur in Senate Committee Amendment No. 1 to **HB 4**. Agreed.

Representative Nunn moved that **HB 4**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See March 4, 1998 roll call on **HB 4** - Appendix.) **HB 4**, as amended by the Senate, was passed and the title agreed to. Representative Nunn moved that the vote by which **HB 4**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 212, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 212** is as follows:

On page 3, line 10, after "***The***" by inserting "***cabinet may***" and by deleting "***program shall***" and after "***also***" by inserting "***, as funding allows,***".

Representative Nunn moved that the House concur in Senate Committee Amendment No. 1 to **HB 212**. Agreed.

Representative Nunn moved that **HB 212**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 4, 1998 roll call on **HB 212** - Appendix.) **HB 212**, as amended by the Senate, was passed and the title agreed to. Representative Nunn moved that the vote by which **HB 212**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 53, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HJR 53** is as follows:

On page 2, line 1, by deleting "KY 114" and inserting in lieu thereof "that portion of KY 80", and after "County" add "between the Knott/Floyd County line and KY 680"; and

On page 2, line 3, by deleting "KY 114" and inserting in lieu thereof "a portion of KY 80".

The Senate Committee Amendment No. 2 Title to **HJR 53** is as follows:

By changing the title to read:

"A JOINT RESOLUTION directing the Transportation Cabinet to name a portion of KY 80 in Floyd County in honor of Charles H. Gearheart."

Representative Stumbo moved that the House concur in Senate Committee Amendment No. 1 to **HJR 53**. Agreed.

Representative Stumbo moved that **HJR 53**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 4, 1998 roll call on **HJR 53** - Appendix.) **HJR 53**, as amended by the Senate, was passed. Representative Stumbo moved that the House concur in Senate Committee Amendment No. 2 Title to **HJR 53**. Agreed; and the title was agreed to. Representative Stumbo moved that the vote by which **HJR 53**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 883, by Representative Simpson: AN ACT relating to embalmers and funeral directors.

HB 884, by Representative Wilkey: AN ACT relating to adoption.

HB 885, by Representative Wilkey: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 886, by Representative Worthington: AN ACT relating to traffic regulations.

HB 887, by Representatives Richards, Thomas, and Wilkey: AN ACT relating to tax administration.

HB 888, by Representative P. Clark: AN ACT relating to teachers.

HB 889, by Representative Marzian: AN ACT relating to local government.

HB 890, by Representative Crimm: AN ACT relating to the practice of cosmetologists in barber shops.

HB 891, by Representative Heleringer: AN ACT relating to probation and parole.

HB 892, by Representatives Nesler and Gray: AN ACT relating to weight limits on highways.

HB 893, by Representative Simpson: AN ACT relating to alcoholic beverages.

HB 894, by Representative Nesler: AN ACT relating to school employees.

HB 895, by Representative Kerr: AN ACT relating to child support.

HB 896, by Representatives Alexander and Napier: AN ACT relating to dissolution of marriage.

HB 897, by Representative Maricle: AN ACT relating to school superintendents.

HB 898, by Representative Kerr: AN ACT relating to testing for operators' licenses.

HB 899, by Representative Hogancamp: AN ACT relating to state-owned vehicles.

HB 900, by Representative Riner: AN ACT relating to students.

HB 901, by Representative Collins: AN ACT relating to postsecondary vocational education employees.

HB 902, by Representative Hogancamp: AN ACT relating to academics in the public schools and declaring an emergency.

HB 903, by Representative Stein: AN ACT relating to guardianship.

HB 904, by Representatives McKee, J. Arnold, A. Arnold, Hoffman, Weaver, Bruce, D. Graham, Haydon, and R. Adams: AN ACT relating to fences.

HB 905, by Representative Ratliff: AN ACT relating to motor vehicle insurance.

HB 906, by Representative Horlander: AN ACT relating to utility bills.

HB 907, by Representative Siler: AN ACT relating to the school term, and declaring an emergency.

HB 908, by Representative Jenkins: AN ACT relating to certified employees.

HB 909, by Representative Jenkins: AN ACT relating to juries.

HB 910, by Representative Jenkins: AN ACT relating to taxicab or limousine operators.

HB 911, by Representative Palumbo: AN ACT relating to economic development.

HB 912, by Representative Palumbo: AN ACT relating to public school students.

HB 913, by Representatives Jordan, Marzian, Heleringer, Nunn, Hoffman, Mason, Crenshaw, Vincent, Hatcher, Brown, Burch, Stein, Moberly, Siler, and Zimmerman: AN ACT relating to the observance of holidays.

HB 914, by Representative Gray: AN ACT relating to water and sewer lines.

HB 915, by Representative Pope: AN ACT relating to motor fuel taxes.

HB 916, by Representatives Palumbo, Jenkins, and Stein: AN ACT relating to legislative ethics.

HB 917, by Representative Barrows: AN ACT relating to agriculture assistance and diversification.

HB 918, by Representative Wilkey: AN ACT relating to adoption.

HB 919, by Representative Crenshaw: AN ACT relating to caseloads of social workers.

HB 920, by Representative Ratliff: AN ACT relating to school property

HB 921, by Representative Johns: AN ACT relating to driving under the influence.

HB 922, by Representatives Marzian, Jordan, and Jenkins: AN ACT relating to licensure of facilities providing outpatient surgical procedures.

HB 923, by Representative Napier: AN ACT relating to motor vehicles.

HB 924, by Representative Cox: AN ACT relating to hospital districts.

HR 122, by Representatives G. Graham, Crall, J. Arnold, Stewart, Polston, Palumbo, Stein, Adkins, Treesh, Gooch, Cave, Yonts, and D. D. Butler: A RESOLUTION directing the Tourism Cabinet to promote bluegrass music as a unique Kentucky tourist attraction.

HCR 123, by Representative Hogancamp: A CONCURRENT RESOLUTION requesting the Governor to include crisis pregnancy centers as a major part of Kentucky's effort to promote abstinence.

HCR 124, by Representative Murgatroyd: A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force on economic development incentives for existing industry to study new incentive opportunities for manufacturers and businesses.

HCR 125, by Representative Ratliff: A CONCURRENT RESOLUTION urging the General Assembly to designate Fishtrap Lake as a Kentucky State Park and to appropriate necessary funds.

HCR 126, by Representative Mason: A CONCURRENT RESOLUTION recognizing the Kentucky Public Health Improvement Plan, a strategic plan for the public health in Kentucky, produced by the Department for Public Health.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Agriculture and Small Business: **HB 774, HB 776**

Banking and Insurance: **HB 786**

Health and Welfare: **SB 68, SB 60, HCR 103, HB 721, HB 864**

Labor and Industry: **HB 804**

Licensing and Occupations: **HB 861, HB 771, HB 694**

Floor Amendments (Continued)

Floor Amendment No. 2 to the House Committee Substitute to **SB 63**, by Representative Cave:

On page 1, by deleting lines 1 to 22 in their entirety; and

On page 1, line 23, by deleting "SECTION 2." and inserting "SECTION 1."; and

On page 2, by deleting lines 19 to 27 in their entirety and by deleting pages 3, 4, and 5 in their entirety.

Floor Amendment No. 2 to **HB 636**, by Representative Anderson:

On page 5, line 22, after "***way***" by inserting "***, except that waste tires stored uncovered on the effective date of this Act shall be exempt from the requirements of this paragraph***".

Report of Committees (Continued)

The Committee on Counties and Special Districts reported **HB 230, HB 559, HB 605, SB 66,** with House Committee Substitute attached thereto, **SB 78, SB 103,** with House Committee Substitute attached thereto, and **SB 114,** with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 230, AN ACT relating to payroll deductions

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.158 is amended to read as follows:

Any city or urban-county government which makes deductions from the pay of its employees for any cause other than taxes shall, upon the ***written request of any employee***[~~petition of a majority of the employees~~] within a department or division, deduct ***the***[~~such~~] amount from the pay of an employee as he may note on a signed payroll notification card or voucher, for the purposes of employee benefits, insurance, community projects***,*** or union dues. No deduction shall be made pursuant to this section from the pay of any employee who does not sign a payroll notification card or voucher. Upon ***these***[~~such~~] deductions, the city or urban-county government shall, within thirty (30) days, pay to the elected representative or designated recipient for the employees of ***the***[~~such~~] department or division the total amount of the deductions minus the actual cost to the city or urban-county government of processing ***the***[~~such~~] deductions.

HB 559, AN ACT relating to district boundaries for justices of the peace.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.045 is amended to read as follows:

(1) For the purposes of this section the word "district" shall mean:

(a) Justice's of the peace district in counties having a fiscal court composed of the county judge/executive and the justices of the peace; or

(b) County commissioner's district in counties having a fiscal court composed of the county judge/executive and three (3) county commissioners***; or***

(c) Justice's of the peace district in counties having a fiscal court composed of the county judge/executive and three (3) county commissioners established according to KRS 67.060.

(2) In counties where the members of the county fiscal court are nominated or elected by districts, the boundaries of those districts shall be drawn so that the districts are compact, contiguous and the population of each district shall be as nearly equal as is reasonably possible.

(3) In counties where the fiscal court consists of the county judge/executive and three (3) county commissioners established according to KRS 67.060, the justice of the peace districts shall be coextensive with the three (3) county commissioner districts.

(4)[~~(3)~~] The fiscal court shall initiate reapportionment proceedings in February of the second year following the decennial census of the United States. The fiscal court may, at other times, review the district boundaries and shall initiate reapportionment proceedings if the district boundaries are in violation of subsection (2) of this section.

(5)[~~(4)~~] To initiate a reapportionment proceeding, the fiscal court shall publish notice of the planned reapportionment in accordance with KRS Chapter 424 and appoint three (3) competent citizens of the county over twenty-one (21) years of age, and residing in different districts, and the county clerk as a nonvoting member as commissioners to reapportion the county into not less than three (3) nor more than eight (8) justices' districts in counties having a fiscal court composed of the county judge/executive and the justices of the peace or three (3) commissioner's districts in counties having a fiscal court composed of the county judge/executive and county commissioners. The commissioners, before they proceed to act, shall be sworn to faithfully perform their duties. They shall receive out of the county treasury a reasonable compensation for their services, fixed by the fiscal court.

(6)[~~(5)~~] The commissioners shall, within sixty (60) days after their appointment, lay off the boundary lines of the districts. They shall file in the office of the county clerk and with each member of the fiscal court a written report, showing the boundary of each district and the estimated population in each. Within sixty (60) days of the receipt of the report, the fiscal court shall consider the report of the commissioners and, in accordance with the provisions of KRS 67.075 to 67.077, adopt or amend the report in establishing the districts. In no event shall districts be reapportioned during the period from thirty (30) days prior to the last date for filing for candidacy for county office as provided in KRS 118.165 and the regular election for candidates for county office.

(7)[~~(6)~~] Precinct lines shall be redrawn when necessary in accordance with the provisions of KRS 117.055. No precinct shall be in more than one (1) district.

(8)[~~(7)~~] Within twenty (20) days of the establishment of the districts by the fiscal court, any registered voter of the county may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the fiscal court has violated the provisions of this section, remand the matter to the fiscal court. The Circuit Court, in its discretion, may allow the prevailing party, other than the fiscal court, a reasonable attorney's fee, to be paid from the county treasury, as part of the costs.

(9)[~~(8)~~] The fiscal court of any county which has not reapportioned its districts since the 1980 decennial census of the United States shall initiate reapportionment proceedings within sixty (60) days of July 15, 1982.

HB 605, AN ACT relating to hazardous duty retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) ***(a)*** "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(b) Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(c) Hazardous positions shall include the positions of jailer and deputy jailer for those jailers and deputy jailers who otherwise qualify for retirement benefits with the County Employees Retirement System.

(d) Hazardous positions shall include the positions of sheriff and deputy sheriff for those sheriffs and deputy sheriffs who otherwise qualify for retirement benefits with the County Employees Retirement System.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652.

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 2. KRS 67.080 is amended to read as follows:

(1) The fiscal court may:

(a) Appropriate county funds according to the provisions of KRS 68.210 through 68.360 for lawful purposes;

(b) Sell and convey any real estate belonging to the county, and buy land for the use of the county, when necessary, for the lawful purposes of the county as provided for in this section and KRS 67.083. The fiscal court may appoint one (1) or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded. When real property is purchased, the county shall pay no more than the highest appraised value, as determined by a Kentucky certified real property appraiser as defined in KRS 324A.010, or the price determined through exercising the power of eminent domain, if that power is used. A valuation of the property shall not be required if the purchase price is forty thousand dollars ($40,000) or less;

(c) Regulate and control the fiscal affairs of the county;

(d) Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, employ a competent person to keep such accounts and records, pay such person a reasonable compensation for such services, and have the accounts of the county and all county officers audited, when necessary and in accordance with the provisions of KRS 43.070 and 64.810;

(e) Exercise all the corporate powers of the county unless otherwise provided by law;

(f) Establish all appointive offices, set the duties of those offices, and approve all appointments to those offices; and

(g) Investigate all activities of the county government.

(2) The fiscal court shall:

(a) Appropriate county funds, according to the provisions of KRS 68.210 to 68.360, for purposes required by law;

(b) As needed, cause the construction, operation, and maintenance of all county buildings and other structures, grounds, roads and other property;

(c) Adopt an administrative code for the county;~~[and]~~

(d) Provide for the incarceration of prisoners according to the provisions of KRS Chapter 441***; and***

(e) Appropriate county funds to make contributions required by Section 1 of this Act for participation in the hazardous duty retirement program by jailers, deputy jailers, sheriffs, and deputy sheriffs.

(3) The fiscal court shall not exercise executive authority except as specifically assigned by statute.

Section 3. KRS 441.225 is amended to read as follows:

(1) Except for capital improvements, utilities and building insurance and except as provided in subsection (2) of this section, the jailer shall have authority to authorize expenditures from the jail budget. Such expenditures shall only be made in accordance with the line item jail budget duly adopted or amended by the fiscal court and the established county procurement code or purchase order procedure of the county. Payment for purchases for the jail shall be subject to fiscal court approval prior to payment. The fiscal court shall not withhold approval of payment for jail expenditures which are within the jail budget and not unlawful.

(2) The jailer shall submit, in accordance with county payroll procedures, time reports for all full-time and part-time jail personnel and employees to the county treasurer or other designated payroll official. The county treasurer shall review and pay such claims in accordance with policies and procedures for the payment of other county employees.

(3) The jail budget shall include funds to make contributions required by Section 1 of this Act for participation in the

hazardous duty retirement program by the jailer and deputy jailers who otherwise qualify for retirement benefits.

SB 66, AN ACT relating to community improvement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Community Improvement Grant Program is established in the Department of Local Government to serve as a state grant program to enhance community development in the Commonwealth. The program shall be administered by the Division of Community Programs in the department.

(2) The Governor shall include in the budget recommendation for the executive branch and in the draft branch budget bill for the executive branch submitted to each regular session of the General Assembly recommendations for appropriations from the general fund to be made by the General Assembly to the Community Improvement Fund established under this section.

(3) Any public project designed to enhance the quality of life for citizens of the Commonwealth through community development shall be eligible for funding from the Community Improvement Grant Program. Any city or county in the Commonwealth shall be eligible to submit an application for funds, up to the maximum indicated in subsection (4) of this section, apportioned to the county in which the applicant government unit is located.

(4) (a) Grant amounts shall not exceed seventy-five thousand dollars ($75,000) per application.

(b) Grant recipients shall match, either in cash or in-kind services, twenty percent (20%) of the total project cost.

(5) The Department of Local Government shall retain ten percent (10%) of the program's total appropriation from which the commissioner of the Department of Local Government shall have the authority to make grants to cities or counties in the event of an emergency.

(6) The commissioner of the Department of Local Government shall prescribe an annual calendar for submission of grant requests.

(7) (a) The applicant shall submit its application to the appropriate area development district, whose board of directors shall be responsible for prioritizing the applications and making recommendations to the director of community programs in the Department of Local Government.

(b) The application form shall include, but not be limited to, the following information:

1. Line item budget for project completion;

2. Overall scope of work;

3. Timeline for completion of the project;

4. Explanation of how the project will impact the community; and

5. Explanation of how the project relates to or enhances regional community development in the Commonwealth.

(c) The criteria utilized in the prioritization of projects by the area development district shall include:

1. A comparison of population to be served;

2. The cost per benefactor;

3. The overall cost;

4. Availability of matching funds;

5. Community support for the project as evidenced through the submission of substantiating material including notice of a public hearing and an overview of the information reviewed;

6. Applicability to established local, regional, or state development plans; and

7. The overall effectiveness of the project in enhancing the health, safety, and welfare of the citizens of the community.

(8) After the applications and recommendations have been received by the director of community programs from the area development district, he or she shall solicit a written opinion as to the effectiveness of the proposed project from the fiscal court or city council and members of the General Assembly in whose district the project is planned. Upon receipt of the responses, the director shall present the projects for review and approval by the Department of Local Government before funding. The commissioner shall reserve the right to amend the prioritization based upon the comments received.

(9) If there is more than one (1) application filed for a county, applications shall be reviewed and rated by a project review team made up of the commissioner's representative of the Department of Local Government, the president of

the Kentucky Association of Counties, and the president of the Kentucky League of Cities. This team shall review the application and consult with the legislative members involved after which the team shall make a recommendation to the commissioner regarding funding prioritization.

(10) If projects awarded under this program are not completed within fifteen (15) months of the award, any remaining funds shall be forfeited to the Commonwealth unless a waiver is approved by the commissioner of the Department of Local Government for a grant deadline extension.

(11) All grant recipients shall be required to follow the procurement code of the county in which the grant is awarded unless the recipient agency has written procurement guidelines that are more stringent, in which case the most stringent shall apply.

(12) The Department of Local Government may promulgate administrative regulations in accordance with KRS Chapter 13A for implementation of the Community Improvement Grant Program.

Section 2. KRS 147A.021 is amended to read as follows:

(1) The Department of Local Government shall have the following powers and duties:

(a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.

(b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

(c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.

(d) At its discretion, to compile and publish annually a report on local government.

(2) The Department of Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) Farmers Home Administration;

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department of Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;

(b) Ordinances and codes;

(c) Community development;

(d) Appalachian Regional Development Program;

(e) Economic Development Administration Program;

(f) Intergovernmental Personnel Act Program;

(g) Land and Water Conservation Fund Program;

(h) ***Community Improvement***[~~Area Development~~] Fund Program;

(i) Gas System Restoration Project;

(j) Joint Funding Administration Program;

(k) State clearinghouse for A-95 review;

(l) The memorandums of agreement with the area development districts to provide management assistance to local governments; and

(m) The urban development office.

(4) The Department of Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

Section 3. The following KRS sections are repealed:

42.345 Definitions for KRS 42.350 to 42.370.

42.350 Area development fund for capital projects.

42.355 Examination and approval of projects -- Grants -- Administration -- Conditions.

42.360 Rules and regulations for implementation of KRS 42.350 and 42.355.

42.370 Amounts to be expended from fund.
48.185 Area development fund recommendations.

The House Committee Substitute to **SB 66** is as follows:

AN ACT relating to community improvement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Community Improvement Grant Program is established in the Department of Local Government to serve as a state grant program to enhance community development in the Commonwealth. The program shall be administered by the Division of Community Programs in the department.

(2) The Governor shall include in the budget recommendation for the executive branch and in the draft branch budget bill for the executive branch submitted to each regular session of the General Assembly recommendations for appropriations from the general fund to be made by the General Assembly to the Community Improvement Fund established under this section.

(3) Any public project designed to enhance the quality of life for citizens of the Commonwealth through community development shall be eligible for funding from the Community Improvement Grant Program. Any city or county in the Commonwealth shall be eligible to submit an application for funds, up to the maximum indicated in subsection (4) of this section, apportioned to the county in which the applicant government unit is located.

(4) (a) Grant amounts shall not exceed seventy-five thousand dollars ($75,000) per application.

(b) Grant recipients shall match, either in cash or in-kind services, twenty percent (20%) of the total project cost.

(5) The Department of Local Government shall retain ten percent (10%) of the program's total appropriation from which the commissioner of the Department of Local Government shall have the authority to make grants to cities or counties in the event of an emergency.

(6) The commissioner of the Department of Local Government shall prescribe an annual calendar for submission of grant requests.

(7) (a) The applicant shall submit its application to the appropriate area development district, whose board of directors shall be responsible for prioritizing the applications and making recommendations to the director of community programs in the Department of Local Government.

(b) The application form shall include, but not be limited to, the following information:

1. Line item budget for project completion;

2. Overall scope of work;

3. Timeline for completion of the project;

4. Explanation of how the project will impact the community; and

5. Explanation of how the project relates to or enhances regional community development in the Commonwealth.

(c) The criteria utilized in the prioritization of projects by the area development district shall include:

1. A comparison of population to be served;

2. The cost per benefactor;

3. The overall cost;

4. Availability of matching funds;

5. Community support for the project as evidenced through the submission of substantiating material including notice of a public hearing and an overview of the information reviewed;

6. Applicability to established local, regional, or state development plans; and

7. The overall effectiveness of the project in enhancing the health, safety, and welfare of the citizens of the community.

(8) After the applications and recommendations have been received by the director of community programs from the area development district, he or she shall solicit a written opinion as to the effectiveness of the proposed project from the fiscal court or city council and members of the General Assembly in whose district the project is planned. Upon receipt of the responses, the director shall present the projects for review and approval by the Department of Local Government before funding. The commissioner shall reserve the right to amend the prioritization based upon the comments received.

(9) If there is more than one (1) application filed for a county, applications shall be reviewed and rated by a project review team made up of the commissioner's representative of the Department of Local Government, the president of the Kentucky Association of Counties, and the president of the Kentucky League of Cities. This team shall review the application and consult with the legislative members involved after which the team shall make a recommendation to the commissioner regarding funding prioritization.

(10) If projects awarded under this program are not completed within fifteen (15) months of the award, any remaining funds shall be forfeited to the Commonwealth unless a waiver is approved by the commissioner of the Department of Local Government for a grant deadline extension.

(11) All grant recipients shall be required to follow the procurement code of the county in which the grant is awarded unless the recipient agency has written procurement guidelines that are more stringent, in which case the most stringent shall apply.

(12) The Department of Local Government may promulgate administrative regulations in accordance with KRS Chapter 13A for implementation of the Community Improvement Grant Program.

Section 2. KRS 147A.021 is amended to read as follows:

(1) The Department of Local Government shall have the following powers and duties:

- (a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.
- (b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.
- (c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.
- (d) At its discretion, to compile and publish annually a report on local government.

(2) The Department of Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

- (a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;
- (b) Farmers Home Administration;
- (c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department of Local Government shall provide technical assistance and information to units of local government, including but not limited to:

- (a) Personnel administration;
- (b) Ordinances and codes;
- (c) Community development;
- (d) Appalachian Regional Development Program;
- (e) Economic Development Administration Program;
- (f) Intergovernmental Personnel Act Program;
- (g) Land and Water Conservation Fund Program;
- (h) Area Development Fund Program;
- (i) Gas System Restoration Project;
- (j) Joint Funding Administration Program;
- (k) State clearinghouse for A-95 review;
- (l) The memorandums of agreement with the area development districts to provide management assistance to local governments;~~[and]~~
- (m) The urban development office***; and***
- ***(n) Community Improvement Fund Program***.

(4) The Department of Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

SB 78, AN ACT relating to county funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.310 is amended to read as follows:

Except in case of an emergency concerning which the county judge/executive, the fiscal court and the state local finance officer unanimously agree in writing, no county ***shall***[~~may~~], during the first half of any fourth fiscal year, beginning with the fiscal year ***1998-1999***[~~1941-1942~~], encumber or expend more than sixty-five percent (65%) ***in any fund***[~~of all its current funds, taken as a unit,~~] budgeted for that fiscal year, not counting as current funds any budgetary allotments for or payments of principal and interest of bonded indebtedness.

SB 103, AN ACT relating to fiscal court organization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.050 is amended to read as follows:

(1) Any county may have a fiscal court consisting of the county judge/executive and three (3) commissioners elected from the county at large. To ascertain whether the county desires to have county commissioners, the county judge/executive, upon an application by written petition signed by ***registered voters of the county equal in number to at least fifteen percent (15%) of the total number of votes cast in the county in the preceding presidential election or five thousand (5,000) registered voters of the county, whichever is less***[~~one hundred (100) legal voters of the county~~], shall enter an order on his order book calling an election to submit to the legal voters of the county the following question: "Are you for or against having a fiscal court composed of three (3) commissioners and the county judge/executive?" The order shall be entered at the next regular term after the petition is filed, and shall direct the election to be held at the next regular election to be held in the county if the order is filed with the county clerk not later than the second Tuesday in August preceding the day of the regular election. The county clerk shall give to the sheriff or other officer appointed to hold the election a certified copy of the order within five (5) days after the order is made, and the sheriff or other officer shall have the order published pursuant to KRS Chapter 424 and in addition advertise it by printed handbills posted at one (1) or more conspicuous places in each precinct in the county for the length of time that publication is required, stating when the election will be held and the purpose thereof.

(2) All such elections shall be held under the general election laws. No such election shall be held in any county more often than once in four (4) years.

(3) Any county that has voted in favor of having county commissioners may return to its prior form of government by following the same procedures as provided in subsections (1) and (2) of this section, by which it chose to have county commissioners. A petition for an election on a return to a fiscal court composed of justices of the peace and the county judge/executive shall state a proposed number of justices of the peace. The question to be submitted to the voters shall be in the following form: "Are you in favor of a return to a fiscal court composed of the county judge/executive and (insert the proposed number of justices) justices of the peace who shall represent specific districts within the county?"

(4) If a majority of the votes cast at an election held under subsection (3) of this section are in favor of a return to a fiscal court composed of justices of the peace and the county judge/executive, the fiscal court shall, if necessary, initiate proceedings to reapportion the justices districts, and such reapportionment shall conform to the requirements of KRS 67.045. The change in the composition of the fiscal court shall become effective upon the assumption of office of justices of the peace elected at the next regular election for that office.

The House Committee Substitute to **SB 103** is as follows:

AN ACT relating to fiscal court organization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.050 is amended to read as follows:

(1) Any county may have a fiscal court consisting of the county judge/executive and three (3) commissioners elected from the county at large. To ascertain whether the county desires to have county commissioners, the county judge/executive, upon an application by written petition signed by ***registered voters of the county equal in number to at least fifteen percent (15%) of the total number of votes cast in the county in the preceding presidential election or one thousand two hundred (1,200) registered voters of the county, whichever is less***[~~one hundred (100) legal voters of the county~~], shall enter an order on his order book calling an election to submit to the legal voters of the county the following question: "Are you for or against having a fiscal court composed of three (3) commissioners and the county judge/executive?" The order shall be entered at the next regular term after the petition is filed, and shall direct the election to be held at the next regular election to be held in the county if the order is filed with the county clerk not later than the second Tuesday in August preceding the day of the regular election. The county clerk shall give to the sheriff or other officer appointed to

hold the election a certified copy of the order within five (5) days after the order is made, and the sheriff or other officer shall have the order published pursuant to KRS Chapter 424 and in addition advertise it by printed handbills posted at one (1) or more conspicuous places in each precinct in the county for the length of time that publication is required, stating when the election will be held and the purpose thereof.

(2) All such elections shall be held under the general election laws. No such election shall be held in any county more often than once in four (4) years.

(3) Any county that has voted in favor of having county commissioners may return to its prior form of government by following the same procedures as provided in subsections (1) and (2) of this section, by which it chose to have county commissioners. A petition for an election on a return to a fiscal court composed of justices of the peace and the county judge/executive shall state a proposed number of justices of the peace. The question to be submitted to the voters shall be in the following form: "Are you in favor of a return to a fiscal court composed of the county judge/executive and (insert the proposed number of justices) justices of the peace who shall represent specific districts within the county?"

(4) If a majority of the votes cast at an election held under subsection (3) of this section are in favor of a return to a fiscal court composed of justices of the peace and the county judge/executive, the fiscal court shall, if necessary, initiate proceedings to reapportion the justices districts, and such reapportionment shall conform to the requirements of KRS 67.045. The change in the composition of the fiscal court shall become effective upon the assumption of office of justices of the peace elected at the next regular election for that office.

SB 114, AN ACT relating to community foundations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Foundation" means a charitable community foundation established to accept gifts, bequests, devises, or other transfers for the purpose of meeting charitable objectives for the citizens of the community;

(b) "Local government" means every city, regardless of classification, every county, and every charter county and urban-county government; and

(c) "Component fund" means an individual fund treated as part of a foundation and that meets the requirements established under regulations promulgated implementing Title 26 U.S.C. sec. 170 as amended from time to time.

(2) A local government may donate to a foundation the proceeds from the sale of any utility or facility or any grant, bequest, or devise received by it.

(3) If the foundation receives a gift that is subject to conditions, limitations, or requirements by the donor, the gift shall be segregated in a component fund within the foundation, which shall be subject to conditions, limitations, or requirements that are substantially identical to those established by the donor.

(4) If the foundation receives a gift that is not subject to any specified conditions, limitations, or requirements by the donor, the gift amount shall be maintained in a component fund. The income from the fund shall be distributed to the local government for charitable purposes as directed by an ordinance of the governing body of the local government.

(5) The foundation shall return any donations to the general fund of a local government if:

(a) The foundation loses its status as a public charitable organization;

(b) The foundation is liquidated; or

(c) The foundation violates any condition, limitation, or requirement as established by the local government governing body.

The House Committee Substitute to **SB 114** is as follows:

AN ACT relating to community foundations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Foundation" means a charitable community foundation established to accept gifts, bequests, devises, or other transfers for the purpose of meeting charitable objectives for the citizens of the community;

(b) "Local government" means every city, regardless of classification, every county, and every charter county

and urban-county government; and

(c) "Component fund" means an individual fund treated as part of a foundation and that meets the requirements established under regulations promulgated implementing Title 26 U.S.C. sec. 170 as amended from time to time.

(2) A local government may donate to a foundation the proceeds from the sale of any utility or facility or any grant, bequest, or devise received by it.

(3) If the foundation receives a gift from a local government that is subject to conditions, limitations, or requirements by the donor, the gift shall be segregated in a component fund within the foundation, which shall be subject to conditions, limitations, or requirements that are substantially identical to those established by the donor.

(4) If the foundation receives a gift from a local government that is not subject to any specified conditions, limitations, or requirements by the donor, the gift amount shall be maintained in a component fund. The income from the fund shall be distributed to the local government for charitable purposes as directed by an ordinance of the governing body of the local government.

(5) The foundation shall return any donations to the general fund of a local government if:

(a) The foundation loses its status as a public charitable organization;

(b) The foundation is liquidated; or

(c) The foundation violates any condition, limitation, or requirement as established by the local government governing body.

The Committee on Licensing and Occupations reported **HB 608**, with Committee Substitute attached thereto, **HB 611**, with Committee Substitute attached thereto, **HB 634**, with Committee Substitute attached thereto, **HB 670**, **HB 703**, with Committee Substitute attached thereto, **HB 728**, **HB 757**, with Committee Substitute attached thereto, and **SB 65**, with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 608, AN ACT relating to the certification of fee-based pastoral counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Certification of Fee-Based Pastoral Counselors;

(2) "Certified fee-based pastoral counselor" or "certificate holder" means an ordained minister or the denominational equivalent who:

(a) Has completed a Master's of Divinity and an advanced degree program in pastoral counseling, or an equivalent course of study approved by the board, from an accredited seminary or other educational institution;

(b) Is certified by the board; and

(c) Receives fees or other compensation for the practice of pastoral counseling.

(3) "Fee-based pastoral counseling" means the practice of pastoral counseling at an advanced level, equivalent to the standards of practice set by the American Association of Pastoral Counselors for the "fellow" level, that involves integrating spiritual resources with insights from the behavioral sciences, in exchange for a fee or other compensation.

(4) "Ordained minister or the denominational equivalent" means a person who has been called, elected, or otherwise authorized by a church, synagogue, denomination, or faith group through ordination, consecration, or equivalent means, to exercise within and on the behalf of the denomination or faith group specific religious leadership and service that furthers its purpose and mission.

SECTION 2. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The Kentucky Board of Certification of Fee-Based Pastoral Counselors is hereby created.

(1) The board shall be composed of five (5) members who shall be appointed by the Governor to serve four (4) year terms.

(a) Four (4) members shall be certified fee-based pastoral counselors actively engaged in the practice or teaching of pastoral counseling.

(b) One (1) member shall be a citizen at large who is not associated with, or financially interested in, the practice or business of fee-based pastoral counseling.

(2) All reappointments to the board and vacancies on the board shall be filled by the Governor from a list of three (3) nominees for each vacancy, submitted by the executive committee of the Kentucky Association of Pastoral Counselors. In selecting the three (3) nominees to be submitted to the Governor, the executive committee shall consider all nominations, including self-nominations, from the membership of the Kentucky Association of Pastoral Counselors.

(3) No member shall serve more than two (2) consecutive terms.

(4) The chair of the board may not serve more than two (2) years.

SECTION 3. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The board shall meet at least twice a year, in the spring and the fall. The board shall elect a chair at the fall meeting who shall serve a one (1) year term. The board shall:

(1) Approve or deny applications for certification submitted according to the provisions of Sections 1 to 11 of this Act;

(2) Approve the examination required of applicants for certification, provide for the administration and grading of the examination, and provide for other matters relating to certification in the profession of fee-based pastoral counseling as promulgated in administrative regulations;

(3) Review the credentials of certificate holders to determine eligibility for certification renewal, including payment of fees authorized in Section 5 of this Act;

(4) Certify those fee-based pastoral counseling applicants who satisfy the requirements of Sections 1 to 11 of this Act, including payment of fees authorized in Section 4 of this Act;

(5) Adopt a code of ethics for certified fee-based pastoral counselors by promulgation of administrative regulations;

(6) Promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement the purposes of Sections 1 to 11 of this Act;

(7) Contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(8) Investigate suspected violations of Sections 1 to 11 of this Act;

(9) Institute and maintain actions to restrain or enjoin persons who violate the certification provisions of Sections 1 to 11 of this Act; and

(10) Submit an annual report to the Governor and to the Legislative Research Commission by January 1 of each year, listing all hearings conducted by the board, any decisions rendered, and a current roster of all certified fee-based pastoral counselors.

SECTION 4. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

An applicant for certification as a fee-based pastoral counselor shall:

(1) Pay the board an initial fee for certification that shall be established by administrative regulation promulgated in accordance with KRS Chapter 13A;

(2) Be at least twenty-one (21) years of age;

(3) Reside or be employed in the Commonwealth of Kentucky;

(4) Have completed a Master's of Divinity degree or its equivalent with a minimum of ninety (90) hours from a seminary accredited by the Association of Theological Schools or an equivalent course of study as defined by the board by promulgation of administrative regulations;

(5) Have completed each of the following:

  (a) At least one thousand three hundred seventy-five (1,375) hours in the practice of supervised pastoral counseling acceptable to the board, subsequent to being granted a master's degree; and

  (b) A minimum of two hundred fifty (250) hours of clinical supervision acceptable to the board;

(6) Be an ordained minister or the denominational equivalent, as determined by the applicant's denomination or faith group, and have been endorsed by that denomination or faith group to function as a fee-based pastoral counselor;

(7) Hold an advanced degree or its equivalent beyond the Master's of Divinity degree with special concentration in the theory and practice of pastoral counseling and which requires at least one (1) year of academic work beyond the first professional degree; and

(8) If the applicant has not received certification before July 1, 1999, pass a written examination approved by the board and based on guidelines established by the American Association of Pastoral Counselors.

SECTION 5. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) Certification issued under Section 5 of this Act shall be renewed every three (3) years upon:

(a) Payment of a renewal fee established by the board and promulgated by administrative regulation in accordance with KRS Chapter 13A, but not to exceed three hundred dollars ($300); and

(b) Documentation of twenty (20) hours of continuing education completed since the date of last renewal or original issue, whichever is later.

(2) Any certificate not renewed within three (3) months of its renewal date shall expire. The board may reinstate the certificate upon payment of the renewal fee and meeting the continuing education requirement set forth in subparagraph (b) of subsection (1) of this section within one (1) year after the renewal date.

SECTION 6. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 11 of this Act shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, nurses, marriage and family therapists, art therapists, or students within accredited training programs of these professions. Nothing in Sections 1 to 11 of this Act shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.

(2) No person shall use the title "certified fee-based pastoral counselor" or hold himself or herself out as a certified fee-based pastoral counselor, unless certified by the board.

(3) Nothing in Sections 1 to 11 of this Act shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.

(4) Nothing in Sections 1 to 11 of this Act shall be construed as regulating or limiting the ministry or services of a minister, including pastoral care and counseling, otherwise authorized by a church, denomination, or faith group to perform the ordinary duties or functions of the clergy.

(5) Nothing in Sections 1 to 11 of this Act shall be construed to apply to the activities and services of a student or trainee in pastoral counseling who is pursuing a program of studies in pastoral counseling at an accredited institution of higher learning if the activities are performed under supervision and constitute a part of the supervised program of study, and if the person is designated a pastoral counseling intern or student in training.

SECTION 7. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

If the board finds any applicant or certificate holder whom it regulates under Sections 1 to 11 of this Act has violated the provisions of Sections 1 to 11 of this Act, or any administrative regulation promulgated under the authority granted to the board, the board may issue an order imposing one (1) or more of the following penalties:

(1) Denial of an application for certification, either temporarily or permanently;

(2) Revocation of a certificate or an application for certification, either temporarily or permanently;

(3) Imposition of an administrative fine not to exceed one thousand dollars ($1,000);

(4) Imposition of a requirement for supervision of the applicant or certificate holder;

(5) Restriction of the certificate holder's ability to supervise others; and

(6) Issuance of a reprimand.

SECTION 8. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

Any person or organization, including the board upon its own volition, may file with the board a written complaint alleging violation of any provision of Sections 1 to 11 of this Act. The board shall cause the complaint to be investigated.

(1) If the investigation reveals evidence supporting the complaint, the board shall set the matter for hearing in accordance with the provisions of KRS Chapter 13B before refusing to renew, revoking, reprimanding, imposing probation or an administrative fine, or any combination of actions regarding any certificate holder.

(2) After denying an application for certification under Sections 1 to 11 of this Act, the board may grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(3) The board may reconsider, modify, or reverse its decision on any disciplinary action.

(4) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

SECTION 9. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

A person whose certificate has been revoked may apply for reinstatement no earlier than one (1) year from the date of revocation, in accordance with the procedures established by the board by administrative regulation under KRS Chapter 13A.

SECTION 10. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

Members of the board and its agents shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed reasonably and in good faith by the board member, agent, or employee.

SECTION 11. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The Board of Certification of Fee-Based Pastoral Counselors fund is hereby created in the State Treasury. All funds received by the board under the provisions of Sections 1 to 11 of this Act shall be deposited with the State Treasurer for credit to the board fund. The fund shall be invested as all other state funds are invested, and income from investment of the fund shall be credited to the fund. The balance remaining in the fund at the end of any fiscal year shall not lapse to the general fund. The money in the board fund shall be appropriated to the board and shall be used for the purpose of carrying out the provisions of Sections 1 to 11 of this Act.

Section 12. KRE 506 is amended to read as follows:

(a) Definitions. As used in this rule:

(1) A "counselor" includes:

(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;

(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;

(C) A certified professional art therapist who is engaged to conduct art therapy pursuant to KRS 309.130 to 309.1399;

(D) A certified marriage and family therapist as defined in KRS 335.300 who is engaged to conduct marriage and family therapy pursuant to KRS 335.300 to 335.399;

(E) A certified professional counselor as defined in KRS 335.500;

(F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team pursuant to KRS 42.660 to 42.680;[~~ and~~]

(G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney pursuant to KRS 15.760 or a county attorney pursuant to KRS 69.350***; and***

(H) A certified fee-based pastoral counselor as defined in Section 1 of this Act who is engaged to conduct fee-based pastoral counseling pursuant to Sections 1 to 11 of this Act.

(2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.

(3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.

(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.

(d) Exceptions. There is no privilege under this rule for any relevant communication:

(1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

(2) If the judge finds:

(A) That the substance of the communication is relevant to an essential issue in the case;

(B) That there are no available alternate means to obtain the substantial equivalent of the communication; and

(C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

Section 13. The original four (4) fee-based pastoral counselor members of the board created in Section 2 of this Act shall be appointed upon the effective date of this Act by the Governor from a list of eight (8) nominees submitted by the board of directors of the Kentucky Association of Pastoral Counselors. Each of these four initial appointees shall possess the qualifications for certification as a fee-based pastoral counselor and shall be deemed certified under the provisions of Sections 1 to 11 of this Act immediately upon being appointed to the board.

(a) The initial appointments shall be for the following terms:
   1. One (1) member and the citizen-at-large member to terms of four (4) years;
   2. Two (2) members to terms of three (3) years; and
   3. One (1) member to a term of two (2) years.

(b) Thereafter, each member of the board shall serve for a term of four (4) years.

The Committee Substitute to **HB 608** is as follows:

AN ACT relating to the certification of fee-based pastoral counselors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The purpose of Sections 1 to 12 and 13 of this Act is to protect the public safety and welfare by providing for the certification and regulation of persons engaged in the practice of fee-based pastoral counseling. As such, it is not the intent of Sections 1 to 12 and 13 of this Act to advance or inhibit religion, to in any way affect the performance of ordinary duties or functions of the clergy, or to foster excessive government entanglement with religion.

SECTION 2. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Certification of Fee-Based Pastoral Counselors;

(2) "Certified fee-based pastoral counselor" or "certificate holder" means an ordained minister or the denominational equivalent who:

(a) Has completed a Master's of Divinity and an advanced degree program in pastoral counseling, or an equivalent course of study approved by the board, from an accredited seminary or other accredited educational institution;

(b) Is certified by the board; and

(c) Receives fees or other compensation for the practice of pastoral counseling.

(3) "Fee-based pastoral counseling" means the practice of pastoral counseling at an advanced level, equivalent to the standards of practice set by the American Association of Pastoral Counselors for the "fellow" level, that involves integrating spiritual resources with insights from the behavioral sciences, in exchange for a fee or other compensation.

(4) "Ordained minister or the denominational equivalent" means a person who has been called, elected, or otherwise authorized by a church, synagogue, denomination, or faith group through ordination, consecration, or equivalent means, to exercise within and on the behalf of the denomination or faith group specific religious leadership and service that furthers its purpose and mission.

SECTION 3. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The Kentucky Board of Certification of Fee-Based Pastoral Counselors is hereby created.

(1) The board shall be composed of five (5) members who shall be appointed by the Governor to serve four (4) year terms.

(a) Four (4) members shall be certified fee-based pastoral counselors actively engaged in the practice or teaching of pastoral counseling.

(b) One (1) member shall be a citizen at large who is not associated with, or financially interested in, the practice or business of fee-based pastoral counseling.

(2) All reappointments to the board and vacancies on the board shall be filled by the Governor from a list of three (3) nominees for each vacancy, submitted by the executive committee of the Kentucky Association of Pastoral Counselors. In selecting the three (3) nominees to be submitted to the Governor, the executive committee shall consider all nominations, including self-nominations, from all fee-based pastoral counselors certified under the provisions of Sections 1 to 12 of this Act.

(3) No member shall serve more than two (2) consecutive terms.

(4) The chair of the board may not serve more than two (2) years.

SECTION 4. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The board shall meet at least twice a year, in the spring and the fall. The board shall elect a chair at the fall meeting who shall serve a one (1) year term. The board shall:

(1) Approve or deny applications for certification submitted according to the provisions of Sections 1 to 12 of this Act;

(2) Approve the examination required of applicants for certification, provide for the administration and grading of the examination, and provide for other matters relating to certification in the profession of fee-based pastoral counseling as promulgated in administrative regulations;

(3) Review the credentials of certificate holders to determine eligibility for certification renewal, including payment of fees authorized in Section 6 of this Act;

(4) Certify those fee-based pastoral counseling applicants who satisfy the requirements of Sections 1 to 12 of this Act, including payment of fees authorized in Section 5 of this Act;

(5) Adopt a code of ethics for certified fee-based pastoral counselors by promulgation of administrative regulations;

(6) Promulgate administrative regulations, in accordance with KRS Chapter 13A, to implement the purposes of Sections 1 to 12 of this Act;

(7) Contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(8) Investigate suspected violations of Sections 1 to 12 of this Act;

(9) Institute and maintain actions to restrain or enjoin persons who violate the certification provisions of Sections 1 to 12 of this Act; and

(10) Submit an annual report to the Governor and to the Legislative Research Commission by January 1 of each year, listing all hearings conducted by the board, any decisions rendered, and a current roster of all certified fee-based pastoral counselors.

SECTION 5. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

An applicant for certification as a fee-based pastoral counselor shall:

(1) Pay the board an initial fee for certification that shall be established by administrative regulation promulgated in accordance with KRS Chapter 13A;

(2) Be at least twenty-one (21) years of age;

(3) Reside or be employed in the Commonwealth of Kentucky;

(4) Have completed a Master's of Divinity degree or its equivalent with a minimum of ninety (90) hours from a seminary accredited by the Association of Theological Schools or an equivalent course of study as defined by the board by promulgation of administrative regulations;

(5) Have completed each of the following:

  (a) At least one thousand three hundred seventy-five (1,375) hours in the practice of supervised pastoral counseling acceptable to the board, subsequent to being granted a master's degree; and

  (b) A minimum of two hundred fifty (250) hours of clinical supervision acceptable to the board;

(6) Be an ordained minister or the denominational equivalent, as determined by the applicant's denomination or faith group, and have been endorsed by that denomination or faith group to function as a fee-based pastoral counselor;

(7) Hold an advanced degree or its equivalent beyond the Master's of Divinity degree with special concentration in the theory and practice of pastoral counseling and which requires at least one (1) year of academic work beyond the first professional degree; and

(8) If the applicant has not received certification before July 1, 1999, pass a written examination approved by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) Certification issued under Section 4 of this Act shall be renewed every three (3) years upon:

  (a) Payment of a renewal fee established by the board and promulgated by administrative regulation in accordance with KRS Chapter 13A, but not to exceed three hundred dollars ($300); and

  (b) Documentation of twenty (20) hours of continuing education completed since the date of last renewal or original issue, whichever is later.

(2) Any certificate not renewed within three (3) months of its renewal date shall expire. The board may reinstate the certificate upon payment of the renewal fee and meeting the continuing education requirement set forth in subparagraph (b) of subsection (1) of this section within one (1) year after the renewal date.

SECTION 7. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 12 of this Act shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, nurses, marriage and family therapists, art therapists, or students within accredited training programs of these professions. Nothing in Sections 1 to 12 of this Act shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.

(2) No person shall use the title "certified fee-based pastoral counselor" or hold himself or herself out as a certified fee-based pastoral counselor, unless certified by the board.

(3) Nothing in Sections 1 to 12 of this Act shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.

(4) Nothing in Sections 1 to 12 of this Act shall be construed as regulating or limiting the ministry or services of a minister, including pastoral care and counseling, otherwise authorized by a church, denomination, or faith group to perform the ordinary duties or functions of the clergy.

(5) Nothing in Sections 1 to 12 of this Act shall be construed to apply to the activities and services of a student or trainee in pastoral counseling who is pursuing a program of studies in pastoral counseling at an accredited institution of higher learning if the activities are performed under supervision and constitute a part of the supervised program of study, and if the person is designated a pastoral counseling intern or student in training.

SECTION 8. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

If the board finds any applicant or certificate holder whom it regulates under Sections 1 to 12 of this Act has violated the provisions of Sections 1 to 12 of this Act, or any administrative regulation promulgated under the authority granted to the board, the board may issue an order imposing one (1) or more of the following penalties:

(1) Denial of an application for certification, either temporarily or permanently;

(2) Revocation of a certificate or an application for certification, either temporarily or permanently;

(3) Imposition of an administrative fine not to exceed one thousand dollars ($1,000);

(4) Imposition of a requirement for supervision of the applicant or certificate holder;

(5) Restriction of the certificate holder's ability to supervise others; and

(6) Issuance of a reprimand.

SECTION 9. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

Any person or organization, including the board upon its own volition, may file with the board a written complaint alleging violation of any provision of Sections 1 to 12 of this Act. The board shall cause the complaint to be investigated.

(1) If the investigation reveals evidence supporting the complaint, the board shall set the matter for hearing in accordance with the provisions of KRS Chapter 13B before refusing to renew, revoking, reprimanding, imposing probation or an administrative fine, or any combination of actions regarding any certificate holder.

(2) After denying an application for certification under Sections 1 to 12 of this Act, the board may grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

(3) The board may reconsider, modify, or reverse its decision on any disciplinary action.

(4) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

SECTION 10. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

A person whose certificate has been revoked may apply for reinstatement no earlier than one (1) year from the date of revocation, in accordance with the procedures established by the board by administrative regulation under KRS Chapter 13A.

SECTION 11. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

Members of the board and its agents shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed reasonably and in good faith by the board member, agent, or employee.

SECTION 12. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

The Board of Certification of Fee-Based Pastoral Counselors fund is hereby created in the State Treasury. All funds received by the board under the provisions of Sections 1 to 12 of this Act shall be deposited with the State Treasurer for credit to the board fund. The fund shall be invested as all other state funds are invested, and income from investment of the fund shall be credited to the fund. The balance remaining in the fund at the end of any fiscal year shall not lapse to the general fund. The money in the board fund shall be appropriated to the board and shall be used for the purpose of carrying out the provisions of Sections 1 to 12 of this Act.

Section 13. KRE 506 is amended to read as follows:

(a) Definitions. As used in this rule:

(1) A "counselor" includes:

(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;

(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter 421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;

(C) A certified professional art therapist who is engaged to conduct art therapy pursuant to KRS 309.130 to 309.1399;

(D) A certified marriage and family therapist as defined in KRS 335.300 who is engaged to conduct marriage and family therapy pursuant to KRS 335.300 to 335.399;

(E) A certified professional counselor as defined in KRS 335.500;

(F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team pursuant to KRS 42.660 to 42.680;~~[and]~~

(G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney pursuant to KRS 15.760 or a county attorney pursuant to KRS 69.350***; and***

(H) A certified fee-based pastoral counselor as defined in Section 1 of this Act who is engaged to conduct fee-based pastoral counseling pursuant to Sections 1 to 12 of this Act.

(2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.

(3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.

(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.

(d) Exceptions. There is no privilege under this rule for any relevant communication:

(1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

(2) If the judge finds:

(A) That the substance of the communication is relevant to an essential issue in the case;

(B) That there are no available alternate means to obtain the substantial equivalent of the communication; and

(C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

Section 14. The original four (4) fee-based pastoral counselor members of the board created in Section 2 of this Act shall be appointed upon the effective date of this Act by the Governor from a list of eight (8) nominees submitted by the board of directors of the Kentucky Association of Pastoral Counselors. Each of these four initial appointees shall possess the qualifications for certification as a fee-based pastoral counselor and shall be deemed certified under the provisions of Sections 1 to 11 of this Act immediately upon being appointed to the board.

(a) The initial appointments shall be for the following terms:

1. One (1) member and the citizen-at-large member to terms of four (4) years;
2. Two (2) members to terms of three (3) years; and
3. One (1) member to a term of two (2) years.

(b) Thereafter, each member of the board shall serve for a term of four (4) years.

HB 611, AN ACT relating to prohibited cosmetology products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317A.130 is amended to read as follows:

No instructor, student, cosmetologist, apprentice, or nail technician shall:

(1) Knowingly continue to practice while he has an infectious or communicable disease;

(2) Fail to provide the head rest of each chair with a relaundered towel or a sheet of clean paper for each person;

(3) Fail to place around the patron's neck a strip of cotton, towel, or neck strip so that the haircloth does not come in contact with the patron's skin;

(4) Use on one (1) patron a towel that has been used upon another patron, unless the towel has been relaundered;[~~or~~]

(5) Use on any patron any razor, scissors, tweezers, comb, sachet, rubber disc, or part of vibrator or other similar equipment or appliance that comes into contact with the head, face, hands, or neck of a patron, until the equipment or appliance has been immersed in boiling water for ten (10) minutes or in a sterilizing solution and placed in a wet or dry sterilizer until again used. Only those methods of sterilization that are bacteriologically effective and approved by the Department for Health Services shall be used***; or***

(6) Use on any patron any adhesive or other substance containing methyl methacrylate for the purpose of attaching artificial nails or for any other purpose in the practice of cosmetology.

The Committee Substitute to **HB 611** is as follows:

AN ACT relating to prohibited cosmetology products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317A.130 is amended to read as follows:

No instructor, student, cosmetologist, apprentice, or nail technician shall:

(1) Knowingly continue to practice while he has an infectious or communicable disease;

(2) Fail to provide the head rest of each chair with a relaundered towel or a sheet of clean paper for each person;

(3) Fail to place around the patron's neck a strip of cotton, towel, or neck strip so that the haircloth does not come in contact with the patron's skin;

(4) Use on one (1) patron a towel that has been used upon another patron, unless the towel has been relaundered;[~~or~~]

(5) Use on any patron any razor, scissors, tweezers, comb, sachet, rubber disc, or part of vibrator or other similar equipment or appliance that comes into contact with the head, face, hands, or neck of a patron, until the equipment or appliance has been immersed in boiling water for ten (10) minutes or in a sterilizing solution and placed in a wet or dry sterilizer until again used. Only those methods of sterilization that are bacteriologically effective and approved by the Department for Health Services shall be used***; or***

(6) Use on any patron a liquid nail enhancement product containing monomeric methyl methacrylate, also known as dental acrylic monomer, for the purpose of creating artificial nail enhancements in the practice of cosmetology and nail technology.

HB 634, AN ACT relating to Real Estate Appraisers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324A.010 is amended to read as follows:

As used in KRS 324A.010 to 324A.090, unless the context requires otherwise:

(1) "Appraisal" means an oral or written communication independently and impartially prepared by a licensed or certified appraiser setting forth an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate, as of a specified date, for or in expectation of compensation;

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by other parties or the public as acting, as a third party in rendering an unbiased real estate appraisal;

(3) "Appraisal report" means any communication, written or oral, conveying a real estate appraisal, and all other reports communicating an appraisal analysis, opinion, or conclusion;

(4) "Board" means the Real Estate Appraisers Board created under KRS 324A.015;

(5) ***"Certificate holder or licensee" means a person certified or licensed by the board under this chapter.***

(6) "Real estate" or "real property" means real estate in its ordinary meaning and includes any leasehold or other estate or interest in, over, or under land, including leaseholds, all appurtenances and improvements thereto, and may include personal property which is integral to the use of the real property as appraised.

(7) "Uniform Standards of Professional Appraisal Practice" means the standards of practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

Section 2. KRS 324A.030 is amended to read as follows:

(1) [~~On April 7, 1992,~~]It shall be unlawful, unless certified or licensed by the board, for any person to:

(a) Assume or use any title, designation, or abbreviation likely to create the impression that he ***or she*** holds a license or certificate issued by the board;

(b) Describe or refer to any appraisal or evaluation of real estate by the term, "state certified~~["]~~***,"*** "state licensed~~["]~~***,"*** or words of substantially similar meaning; or

(c) Assume or use any title, designation, or abbreviation likely to create the impression of certification or licensure ***by the***~~[as a]~~ state ***as a*** ~~[certified]~~ real estate appraiser firm, partnership, or corporation.

(2) ***A certificate holder or licensee***~~[The holder of a certificate or license issued by the board]~~ shall not assume or use any title, designation, or abbreviation likely to create the impression of certification or licensure by the board other than the correct type of certification or licensure.

(3) Each ***certificate holder or licensee who is a resident of Kentucky***~~[appraiser certified or licensed under this chapter]~~ shall have and maintain a definite place of business in this state.~~[If the appraiser is]~~ A nonresident~~[, it]~~ is not ***required***~~[mandatory]~~ to maintain an active place of business in this state if a definite place of business is maintained in the state where the ***nonresident***~~[appraiser]~~ resides.

(4) Each ***certificate holder or licensee***~~[appraiser certified or licensed under this chapter]~~ shall notify the board of any change of business address, change of company name, or change of surname, within thirty (30) days of the change.

(5) In the case of the death of ***a certificate holder or licensee***~~[an appraiser certified or licensed under the provisions of this chapter]~~, the board may, in its sound discretion, permit a suitable individual to complete the affairs and appraisal assignments of the deceased~~[appraiser]~~.

(6) For any employee of the Transportation Cabinet ***whose job description includes***~~[who performs, as part of his job description,]~~ real estate appraisals~~[for]~~ which ***require*** certification~~[is required]~~, the Transportation Cabinet shall bear the costs of initial application, examination, continued education, and annual renewal.

(7) (a) Those Transportation Cabinet employees serving as right-of-way agents or supervisors, who actually perform on-site appraisals as part of their job descriptions and who have obtained an appraiser certification under the provisions of KRS 324A.010 to 324A.090, shall receive a five percent (5%) salary increase effective January 1 following certification. Those right-of-way agents or supervisors who received certification prior to January 1, 1991, shall receive the salary increase effective January 1, 1991.

(b) The salary increases provided for in subsection (a) of this section shall be made within existing Transportation Cabinet appropriations.

SECTION 3. A NEW SECTION OF KRS 324A.010 TO 324A.090 IS CREATED TO READ AS FOLLOWS:

(1) Upon written request, any certificate holder or licensee may request to place his or her certificate or license in inactive status for a period not to exceed three (3) years.

(a) The written request shall be made by completing a signed and sworn affidavit on a form approved by the board.

(b) The board may require a fee of fifty dollars ($50) for each change in status of the certificate holder or licensee.

(c) A license issued to an individual as a trainee real property appraiser shall not be eligible for inactive status.

(2) No inactive status certificate holder or licensee shall:

(a) Assume or use any title, designation, or abbreviation likely to create the impression that he or she holds a certificate or license issued by the board;

(b) Describe or refer to any appraisal or evaluation of real estate by the term, "state certified," "state licensed," or words of substantially similar meaning; or

(c) Prepare real estate appraisals for federally-related transactions.

(3) To return to active status, a certificate holder or licensee shall:

(a) Petition the board for reactivation of the certificate or license;

(b) Pay the applicable renewal fee and roster fee required by this chapter; and

(c) Provide evidence of completion of the annually-required continuing education hours, as established by the board and promulgated in administrative regulations, for each year of inactive status.

(4) A certificate holder or licensee who petitions to return to active status after an inactive period exceeding three (3) years shall be required to meet all the requirements for original issuance of a license or certificate under this chapter.

(5) Violation of this subsection (2) of this section shall be grounds for disciplinary action under this chapter.

Section 4. KRS 324A.050 is amended to read as follows:

(1) The board may refuse ***to issue, refuse to renew, suspend, or revoke a certificate or license, reprimand, admonish, place on probation, or impose a***[~~issuance or renewal of a certificate or license, or may~~] fine up to ***two thousand dollars ($2000) on a certificate holder or licensee***[~~five hundred dollars ($500), reprimand, suspend, probate, revoke~~], or any combination thereof,[~~ a certificate or license~~] for any of the following reasons:

(a)[~~(1)~~] Procuring or attempting to procure a certificate or license by knowingly making a false statement or submitting false information, or through any form of fraud or misrepresentation;

(b)[~~(2)~~] Refusing to provide complete information in response to a question in an application to the board or failing to meet the minimum qualifications established by the board;

(c)[~~(3)~~]Being convicted of any felony, or of a misdemeanor that may result in a sentence which includes or requires incarceration;

(d)[~~(4)~~] Committing an act involving dishonesty, fraud, or misrepresentation;

(e)[~~(5)~~] Violating any of the provisions of KRS 324A.010 to 324A.090, the administrative regulations of the board, or any lawful order of the board;

(f)[~~(6)~~] Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser;

(g)[~~(7)~~] Committing any other conduct which constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, or dishonesty;

(h)[~~(8)~~] Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(i)[~~(9)~~] Being negligent or incompetent in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal; or

(j)[~~(10)~~] Failing to observe one (1) or more of the ***Uniform*** Standards of Professional Appraisal Practice[~~ established by the board~~].

(2) Three (3) years from the date of a revocation, any certificate holder or licensee whose certificate or license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate, upon a finding that the petitioner has complied with any terms prescribed by the board and is able to engage in the practice of real estate appraisal within the requirements of this chapter and the administrative regulations. The board may, in its discretion, require the petitioner to successfully pass the examination required for the applicable certificate or license.

Section 5. KRS 324A.052 is amended to read as follows:

(1) Any person or organization, including the board upon its own volition, may file with the board a written complaint alleging a violation of any provision of this chapter. The board shall investigate each complaint.

(2) If the investigation reveals evidence supporting the complaint, the board shall set the matter for hearing in accordance with the provisions of KRS Chapter 13B before fining, reprimanding, suspending, revoking, ***refusing to renew,*** or any combination thereof[~~, a license or certificate, the board shall conduct an administrative hearing in accordance with KRS Chapter 13B~~].

(3) If the investigation reveals that the alleged violation did occur but was not of a serious nature, the board may issue a written admonishment to the certificate holder or licensee. A copy of the admonishment shall be placed in the recipient's permanent file with the board. The recipient shall have the right to file a response to the admonishment within thirty (30) days of its receipt and have the response placed in the permanent file. The recipient may, alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing in accordance with the provisions of KRS Chapter 13B.

(4) After denying an application for a certificate or license ***or issuing an admonishment***, the board shall grant an administrative hearing in accordance with KRS Chapter 13B only upon written request of the applicant made within thirty (30) days of the mailing of the letter of denial ***or admonishment***.

(5) Any party aggrieved by a final order of the board may appeal to Franklin Circuit Court as provided by KRS Chapter 13B.

Section 6. KRS 324A.065 is amended to read as follows:

The board shall establish by regulation and collect the following fees for certification or licensure as an appraiser for:

(1) Federally-related transactions:

(a) Initial application fee in an amount not to exceed two hundred ***twelve*** dollars ***($212), which shall include a fee for the current edition of the Uniform Standards of Professional Practice***[~~($200)~~];

(b) Examination fee in an amount not to exceed two hundred dollars ($200);

(c) An annual certificate or licensure fee in an amount not to exceed two hundred ***twelve*** dollars ***($212), which shall include a fee for the current edition of the Uniform Standards of Professional Appraisal Practice***[~~($200)~~];

1. Duplicate certificate fee in an amount not to exceed ten dollars ($10);
2. Certificate correction fee in an amount not to exceed ten dollars ($10);

(d) Roster fee not to exceed fifty dollars ($50).

(2) Nonfederally-related transactions:

(a) Initial application fee in an amount not to exceed one hundred dollars ($100);

(b) Examination fee in an amount not to exceed one hundred dollars ($100);

(c) An annual certificate or licensure renewal fee in an amount not to exceed one hundred dollars ($100);

1. Duplicate certificate fee in an amount not to exceed five dollars ($5);
2. Certificate correction fee in an amount not to exceed five dollars ($5);

(d) Roster fee not to exceed twenty-five dollars ($25).

(3) (a) All fees and charges collected by the board under the provisions of this chapter shall be paid into the Real Estate Appraisers Board's trust and agency account in the State Treasury.

(b) All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board.

(4) All fees and charges collected by the board under the provisions of this chapter shall be paid into the Real Estate Appraisers Board's trust and agency account in the State Treasury. All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board.

The Committee Substitute to **HB 634** is as follows:

AN ACT relating to Real Estate Appraisers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324A.010 is amended to read as follows:

As used in KRS 324A.010 to 324A.090, unless the context requires otherwise:

(1) "Appraisal" means an oral or written communication independently and impartially prepared by a licensed or certified appraiser setting forth an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate, as of a specified date, for or in expectation of compensation;

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by other parties or the public as acting, as a third party in rendering an unbiased real estate appraisal;

(3) "Appraisal report" means any communication, written or oral, conveying a real estate appraisal, and all other reports communicating an appraisal analysis, opinion, or conclusion;

(4) "Board" means the Real Estate Appraisers Board created under KRS 324A.015;

(5) ***"Certificate holder or licensee" means a person certified or licensed by the board under this chapter.***

(6) "Real estate" or "real property" means real estate in its ordinary meaning and includes any leasehold or other estate or interest in, over, or under land, including leaseholds, all appurtenances and improvements thereto, and may include personal property which is integral to the use of the real property as appraised.

(7) "Uniform Standards of Professional Appraisal Practice" means the standards of practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

Section 2. KRS 324A.030 is amended to read as follows:

(1) [~~On April 7, 1992,~~]It shall be unlawful, unless certified or licensed by the board, for any person to:

(a) Assume or use any title, designation, or abbreviation likely to create the impression that he ***or she*** holds a license or certificate issued by the board;

(b) Describe or refer to any appraisal or evaluation of real estate by the term, "state certified[~~"~~],***"*** "state licensed[~~"~~],***"*** or words of substantially similar meaning; or

(c) Assume or use any title, designation, or abbreviation likely to create the impression of certification or licensure ***by the***[~~as a~~] state ***as a*** [~~certified~~] real estate appraiser firm, partnership, or corporation.

(2) ***A certificate holder or licensee***[~~The holder of a certificate or license issued by the board~~] shall not assume or use any

title, designation, or abbreviation likely to create the impression of certification or licensure by the board other than the correct type of certification or licensure.

(3) Each ***certificate holder or licensee who is a resident of Kentucky***[~~appraiser certified or licensed under this chapter~~] shall have and maintain a definite place of business in this state.[~~ If the appraiser is~~] A nonresident[~~, it~~] is not ***required***[~~mandatory~~] to maintain an active place of business in this state if a definite place of business is maintained in the state where the ***nonresident***[~~appraiser~~] resides.

(4) Each ***certificate holder or licensee***[~~appraiser certified or licensed under this chapter~~] shall notify the board of any change of business address, change of company name, or change of surname, within thirty (30) days of the change.

(5) In the case of the death of ***a certificate holder or licensee***[~~an appraiser certified or licensed under the provisions of this chapter~~], the board may, in its sound discretion, permit a suitable individual to complete the affairs and appraisal assignments of the deceased[~~ appraiser~~].

(6) For any employee of the Transportation Cabinet ***whose job description includes***[~~who performs, as part of his job description,~~] real estate appraisals[~~ for~~] which ***require*** certification[~~ is required~~], the Transportation Cabinet shall bear the costs of initial application, examination, continued education, and annual renewal.

(7) (a) Those Transportation Cabinet employees serving as right-of-way agents or supervisors, who actually perform on-site appraisals as part of their job descriptions and who have obtained an appraiser certification under the provisions of KRS 324A.010 to 324A.090, shall receive a five percent (5%) salary increase effective January 1 following certification. Those right-of-way agents or supervisors who received certification prior to January 1, 1991, shall receive the salary increase effective January 1, 1991.

(b) The salary increases provided for in subsection (a) of this section shall be made within existing Transportation Cabinet appropriations.

SECTION 3. A NEW SECTION OF KRS 324A.010 TO 324A.090 IS CREATED TO READ AS FOLLOWS:

(1) Upon written request, any certificate holder or licensee may request to place his or her certificate or license in inactive status for a period not to exceed three (3) years.

(a) The written request shall be made by completing a signed and sworn affidavit on a form approved by the board.

(b) The board may require a fee of fifty dollars ($50) for each change in status of the certificate holder or licensee.

(c) A license issued to an individual as a trainee real property appraiser shall not be eligible for inactive status.

(2) No inactive status certificate holder or licensee shall:

(a) Assume or use any title, designation, or abbreviation likely to create the impression that he or she holds a certificate or license issued by the board;

(b) Describe or refer to any appraisal or evaluation of real estate by the term, "state certified," "state licensed," or words of substantially similar meaning; or

(c) Prepare real estate appraisals for federally-related transactions which, under Title XI of the Financial Institution's Reform, Recovery, and Enforcement Act of 1989, require the services of a state-certified or state-licensed appraiser.

(3) To return to active status, a certificate holder or licensee shall:

(a) Petition the board for reactivation of the certificate or license;

(b) Pay the applicable renewal fee and roster fee required by this chapter; and

(c) Provide evidence of completion of the annually-required continuing education hours, as established by the board and promulgated in administrative regulations, for each year of inactive status.

(4) A certificate holder or licensee who petitions to return to active status after an inactive period exceeding three (3) years shall be required to meet all the requirements for original issuance of a license or certificate under this chapter.

(5) Violation of this subsection (2) of this section shall be grounds for disciplinary action under this chapter.

Section 4. KRS 324A.050 is amended to read as follows:

(1) The board may refuse ***to issue, refuse to renew, suspend, or revoke a certificate or license, reprimand, admonish, place on probation, or impose a***[~~issuance or renewal of a certificate or license, or may~~] fine up to ***two thousand dollars ($2000) on a certificate holder or licensee***[~~five hundred dollars ($500), reprimand, suspend, probate, revoke~~], or any combination thereof,[~~ a certificate or license~~] for any of the following reasons:

(a)[~~(1)~~] Procuring or attempting to procure a certificate or license by knowingly making a false statement or submitting false information, or through any form of fraud or misrepresentation;

(b)[~~(2)~~] Refusing to provide complete information in response to a question in an application to the board or failing to meet the minimum qualifications established by the board;

(c)[~~(3)~~]Being convicted of any felony, or of a misdemeanor that may result in a sentence which includes or requires incarceration;

(d)[~~(4)~~] Committing an act involving dishonesty, fraud, or misrepresentation;

(e)[~~(5)~~] Violating any of the provisions of KRS 324A.010 to 324A.090, the administrative regulations of the board, or any lawful order of the board;

(f)[~~(6)~~] Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser;

(g)[~~(7)~~] Committing any other conduct which constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, or dishonesty;

(h)[~~(8)~~] Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(i)[~~(9)~~] Being negligent or incompetent in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal; or

(j)[~~(10)~~] Failing to observe one (1) or more of the ***Uniform*** Standards of Professional Appraisal Practice[~~established by the board~~].

(2) Three (3) years from the date of a revocation, any certificate holder or licensee whose certificate or license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate, upon a finding that the petitioner has complied with any terms prescribed by the board and is able to engage in the practice of real estate appraisal within the requirements of this chapter and the administrative regulations. The board may, in its discretion, require the petitioner to successfully pass the examination required for the applicable certificate or license.

Section 5. KRS 324A.052 is amended to read as follows:

(1) Any person or organization, including the board upon its own volition, may file with the board a written complaint alleging a violation of any provision of this chapter. The board shall investigate each complaint.

(2) If the investigation reveals evidence supporting the complaint, the board shall set the matter for hearing in accordance with the provisions of KRS Chapter 13B before fining, reprimanding, suspending, revoking, ***refusing to renew,*** or any combination thereof[~~, a license or certificate, the board shall conduct an administrative hearing in accordance with KRS Chapter 13B~~].

(3) If the investigation reveals that the alleged violation did occur but was not of a serious nature, the board may issue a written admonishment to the certificate holder or licensee. A copy of the admonishment shall be placed in the recipient's permanent file with the board. The recipient shall have the right to file a response to the admonishment within thirty (30) days of its receipt and have the response placed in the permanent file. The recipient may, alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing in accordance with the provisions of KRS Chapter 13B.

(4) After denying an application for a certificate or license ***or issuing an admonishment***, the board shall grant an administrative hearing in accordance with KRS Chapter 13B only upon written request of the applicant made within thirty (30) days of the mailing of the letter of denial ***or admonishment***.

(5) Any party aggrieved by a final order of the board may appeal to Franklin Circuit Court as provided by KRS Chapter 13B.

Section 6. KRS 324A.065 is amended to read as follows:

The board shall establish by regulation and collect the following fees for certification or licensure as an appraiser for:

(1) Federally-related transactions:

(a) Initial application fee in an amount not to exceed two hundred ***twelve*** dollars ***($212), which shall include a fee for the current edition of the Uniform Standards of Professional Practice***[~~($200)~~];

(b) Examination fee in an amount not to exceed two hundred dollars ($200);

(c) An annual certificate or licensure fee in an amount not to exceed two hundred ***twelve*** dollars ***($212), which shall include a fee for the current edition of the Uniform Standards of Professional Appraisal Practice***[~~($200)~~];

1. Duplicate certificate fee in an amount not to exceed ten dollars ($10);

2. Certificate correction fee in an amount not to exceed ten dollars ($10);

(d) Roster fee not to exceed fifty dollars ($50).

(2) Nonfederally-related transactions:

(a) Initial application fee in an amount not to exceed one hundred dollars ($100);

(b) Examination fee in an amount not to exceed one hundred dollars ($100);

(c) An annual certificate or licensure renewal fee in an amount not to exceed one hundred dollars ($100);

1. Duplicate certificate fee in an amount not to exceed five dollars ($5);

2. Certificate correction fee in an amount not to exceed five dollars ($5);

(d) Roster fee not to exceed twenty-five dollars ($25).

(3) (a) All fees and charges collected by the board under the provisions of this chapter shall be paid into the Real Estate Appraisers Board's trust and agency account in the State Treasury.

(b) All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board.

(4) All fees and charges collected by the board under the provisions of this chapter shall be paid into the Real Estate Appraisers Board's trust and agency account in the State Treasury. All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board.

HB 670, AN ACT relating to real estate.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) A principal broker may appoint himself or herself or a licensee with which he or she is associated to act as an agent for a seller or buyer or prospective buyer to the exclusion of all other licensees associated with the principal broker.

(2) If a principal broker appoints one (1) licensee to represent the seller and another licensee to represent the buyer or the prospective buyer in the same transaction, the principal broker, the firm, or the licensees shall not be deemed to be dual agents.

(3) If the licensees are appointed in accordance with subsection (1) of this section, knowledge between or among the seller, the buyer, the principal broker, the firm, or the licensees shall not be imputed.

(4) Nothing in this section shall prevent a real estate brokerage firm or licensee from entering into a dual agency relationship with the seller and the buyer or the prospective buyer if the firm or licensee complies with the provisions of this Chapter and administrative regulations promulgated by the commission on agency disclosure. Any licensee who, after such compliance, personally represents both the seller and the buyer in a particular transaction shall be deemed a disclosed dual agent.

SECTION 2. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) A party to a real estate transaction that is assisted by a licensee in a real estate transaction shall not be liable for the wrongful act, error, omission, or misrepresentation of the licensee unless the party had actual knowledge of the wrongful act, error, omission, or misrepresentation.

(2) A licensee shall not be liable for the wrongful act, error, omission, or misrepresentation of a party to a real estate transaction unless the licensee had actual knowledge of the wrongful act, error, omission, or misrepresentation.

HB 703, AN ACT relating to regulation of athlete agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context requires otherwise:

(1) "Agent contract" means any contract or agreement pursuant to which an athlete authorizes or empowers an athlete agent to negotiate or solicit on behalf of the athlete with one (1) or more professional sports teams for the employment of the athlete by one (1) or more professional sports teams, or to negotiate or solicit on behalf of the athlete for the employment of the athlete as a professional athlete;

(2) "Athlete" means a student athlete or any person who is employed or seeks to be employed under a professional sports services contract with a professional sports team or as a professional athlete;

(3) "Athlete agent" means:

(a) Any person who, as part of a business enterprise or as an independent contractor, directly or indirectly

recruits or solicits any athlete to enter into any agent contract or professional sports services contract, or for a fee procures, offers, promises, or attempts to obtain employment for any athlete with a professional sports team or as a professional athlete;

(b) Any member of the state bar of Kentucky or the bar of any other jurisdiction when advising athlete clients and when attempting to negotiate a professional sports services contract for that client; or

(c) Other than for registration purposes, any agent, subagent, employee, or runner of an athlete agent who receives compensation directly or indirectly to recruit any athlete to enter into any contract or negotiates any contract, or for a fee procures, offers, promises, or attempts to obtain employment for any athlete with a professional supports team or as a professional athlete.

Athlete agent does not include an employee or other representative of a professional sports team;

(4) "Commission" means the Kentucky Athlete Agent Regulatory Commission created under Section 2 of this Act;

(5) "Council" means the Kentucky Council on Postsecondary Education;

(6) "Player association" or "buyer organization" means any association or organization that represents professional athletes in collective bargaining with management of professional sports teams;

(7) "Professional sports services contract" means a contract or agreement, written or oral, pursuant to which an athlete is employed or agrees to render services as a player on a professional sports team or as a professional athlete; and

(8) "Student athlete" means any one of the following:

(a) A student who resides in Kentucky and has informed, in writing, a college or university of the student's intent to participate in that school's intercollegiate athletics program and is eligible to do so;

(b) A student who does not reside in Kentucky, but has informed, in writing, a college or university in Kentucky of the student's intent to participate in that school's intercollegiate athletics, or who does participate in that school's intercollegiate athletics program and is eligible to do so; or

(c) A student who is enrolled and participates in a sport at a secondary school, college, or university in Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Athlete Agent Regulatory Commission is created to regulate athlete agents in the Commonwealth. The commission shall consist of thirteen (13) members designated or appointed as follows:

(a) The athletic director or his or her designee of the following universities;

1. University of Kentucky;

2. University of Louisville;

3. Eastern Kentucky University;

4. Kentucky State University;

5. Morehead State University;

6. Murray State University;

7. Northern Kentucky University; and

8. Western Kentucky University;

(b) The President of the Kentucky Community and Technical College System or his or her designee;

(c) Four (4) members appointed by the Governor as follows:

1. A representative from a private college or university that engages in intercollegiate athletics who shall be appointed from a list of at least three (3) candidates submitted by the Kentucky Association of Independent Colleges;

2. A representative from high school athletics who shall be appointed from a list of at least three (3) candidates submitted by the Kentucky High School Athletic Association; and

3. Two (2) public members who shall have no direct affiliation with any Kentucky college or university and no financial interest in any professional sports organization or sports agency. At least one (1) of the public members shall have been a former student athlete at a Kentucky college or university.

(2) All commission members appointed under subsection (1)(c) of this section shall be appointed for a term of four (4) years. Commission members shall not be allowed to serve more than two (2) consecutive full terms.

(3) The appointed members of the commission shall receive one hundred dollars ($100) per diem compensation for their services on the board, and all members shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(4) The commission shall annually elect a chair, a vice chair, and any other officers as the commission deems

necessary.

(5) The commission shall hold at least two (2) meetings annually and additional meetings as it may deem necessary. The additional meetings may be held upon call of the chair or upon written request of seven (7) members. Seven (7) members of the commission shall constitute a quorum to conduct business.

(6) Upon recommendation of the commission, the Governor may remove any member of the board for neglect of duty or malfeasance in office. A vacancy in membership shall be filled in the same manner as an original appointment.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Kentucky Athlete Agent Regulatory Commission shall have the following powers and duties:

(1) Accept applications for registration as an athlete agent, conduct background checks on applicants, and register qualified applicants;

(2) Keep records on all registrants and on commission proceedings and other records as may be necessary to exercise the commission's powers and duties;

(3) Require the submission of reports by registered athlete agents as necessary;

(4) Publish annually a directory of sports agents registered in Kentucky;

(5) Establish a process for receiving complaints against sports agents;

(6) Investigate valid complaints and take appropriate disciplinary action;

(7) Upon appeal of disciplinary actions, hold administrative hearings in accordance with the provisions of KRS Chapter 13B;

(8) Refer violations of criminal statutes to the appropriate prosecutors for action;

(9) Perform other duties and functions as the commission may find necessary to effectively carry out its statutory responsibilities; and

(10) Promulgate necessary administrative regulations in accordance with KRS Chapter 13A as may be necessary to effectively discharge all powers and duties duly conferred on it.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Athlete Agent Regulatory Commission shall be administratively assigned to the Kentucky Council on Postsecondary Education. The council shall provide staff services and logistical support as may be necessary for the commission to function. The cost of these services shall be paid from moneys deposited in the revolving fund established in subsection (2) of this section.

(2) All registration fees, fines, other moneys received by the commission under the provisions of Sections 1 to 11 of this Act and accrued interest shall be deposited in the State Treasury to the credit of a revolving fund. The revolving fund shall be used only for valid expenditures incurred by the commission in the registration and regulation of athlete agents. No part of this revolving fund shall revert to the general fund of the Commonwealth.

(3) Subject to approval of the commission, the revolving fund shall pay for:

  (a) As described in subsection (3) of Section 2 of this Act, the compensation of commission members and reimbursement for actual and necessary expenses incurred in the performance of official duties;

  (b) The compensation of all of the employees of the council employed or assigned to perform duties of the commission; and

  (c) All operating expenses and capital expenditures incurred in fulfilling the commission's powers and duties as described in Section 3 of this Act and administrative regulations promulgated thereunder.

(4) If moneys received and deposited in the revolving fund under subsection (2) of this section are not sufficient to cover the cost of operating the commission, the commission shall assess the state universities of the members listed under subsection (1)(a) of Section 2 of this Act for the difference between moneys accrued under subsection (2) of this section and actual operating costs. The assessments shall be prorated based on student enrollment, and the money received shall be deposited in the revolving fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) No person shall engage in business as an athlete agent or represent himself or herself as an athlete agent unless he or she is registered with the Kentucky Athlete Agent Regulatory Commission under this section.

(2) To register as an athlete agent, a person shall:

  (a) Complete and submit to the commission an application on forms provided by the commission;

  (b) Pay a registration fee to be established by the commission but not to exceed three hundred dollars ($300);

  (c) Submit evidence to the commission that one (1) of the following is in full force and effect:

1. A surety bond payable to the State Treasurer in the sum of one hundred thousand dollars ($100,000); or

2. Malpractice insurance in effect with a minimum of one hundred thousand dollars ($100,000) coverage per incident; or

3. Cash, a certificate of deposit, bearer bonds, other negotiable instruments, or an assigned savings account in the amount of one hundred thousand dollars ($100,000) deposited with or assigned to the commission; and

4. Affirm in the application that he or she will comply with the provisions of Sections 1 to 11 of this Act and all administrative regulations duly promulgated thereunder.

(3) A person shall be denied registration as an athlete agent if he or she:

(a) Fails to comply with subsection (2) of this section;

(b) Has been convicted within the last ten (10) years of any felony or any misdemeanor that in the judgment of the commission would render the applicant unfit to be an athlete agent; or

(c) Has had a license, certificate, or registration denied or revoked by any other state for reasons that would constitute grounds for denial or revocation of registration in Kentucky.

(4) A registered athlete agent shall establish complete financial and business records and maintain them for a period of at least four (4) years. All financial and business records shall be made available to the commission or commission staff upon request and at reasonable hours.

(5) A registered athlete agent shall submit reports on his or her activities within the Commonwealth with the content and frequency of reporting determined by administrative regulation promulgated by the commission.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

No athlete agent shall engage in the following acts:

(1) Making false or misleading statements of a material nature in his or her application for registration.

(2) Misappropriating funds, or engaging in other specific acts such as embezzlement, theft, or fraud, which would render him or her unfit to serve in a fiduciary capacity.

(3) Engaging in other conduct that significantly impacts adversely on his or her credibility, integrity, or competence to serve in a fiduciary capacity.

(4) Engaging in conduct which violates or causes a student athlete to violate any rule or regulation promulgated by an intercollegiate sports governing body.

(5) Failure to include the agent's name in any advertising relating to the business of an athlete agent. Advertising shall not include clothing or novelty items.

(6) Publishing or causing to be published false or misleading information or advertisements, or giving any false information or making false promises to a student athlete concerning employment or financial services.

(7) Offering anything of value to any person to induce a student athlete to enter into an agreement by which the agent will represent the student athlete. Negotiation regarding the agent's fee shall not, however, be considered an inducement.

(8) Accepting as a client a student athlete referred by, or in exchange for, any consideration made to an employee of, or a coach for, a college or university.

(9) Committing mismanagement or misconduct as an agent which causes financial harm to a student athlete or college or university.

(10) Sending a student athlete written materials without simultaneously sending an identical copy of the written materials to the athletics director, or the director's designee, of the college or university in which the student athlete is enrolled or to which the student athlete has provided written intent to participate in intercollegiate athletics.

(11) Contacting a student athlete without the student athlete having first initiated the contact with the athlete agent and the athlete agent having given prior notice to the college or university in which the student athlete is enrolled or to which the student athlete has provided a written intent to participate in intercollegiate athletics.

(12) Engaging in conduct which results in an athlete losing eligibility to participate in intercollegiate athletics as a member of a sports team of an institution of higher education.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section, all contracts to be utilized by athlete agents shall be on a form approved by the commission. This approval shall not be withheld as to any proposed form of agent contract unless the proposed form of agent contract is unfair, unjust, and oppressive to the athlete. Each form of agent contract shall

contain an agreement by the athlete agent to refer any controversy between the athlete and the athlete agent relating to the terms of the agent contract to the commission for adjustment. There shall be printed on the face of the agent contract in prominent type the following: "This athlete agent is registered with the athlete agent regulatory commission of the State of Kentucky. Registration does not imply approval by the commission of the terms and conditions of this contract or the competence of the athlete agent."

(2) An athlete agent who negotiates or enters into an oral or written agent contract with a student athlete or provides any monetary or in-kind benefits to a student athlete who is subject to the rules and regulations of an intercollegiate sports governing body shall notify the athletic director or the president of the college or university in which the student athlete is enrolled and the commission that the athlete agent negotiated or has entered into a contract or has provided monetary or in-kind benefits to a student athlete. Written notification of the contract, regardless of the legal enforceability of the contract under this chapter or any other provision of law, or of accepting any benefits from an athlete agent shall be given before the student athlete practices for, or participates in, an athletic event on behalf of a college or university or within seventy-two (72) hours after entering into the contract or providing the benefits, whichever occurs first.

(3) An agent contract between a student athlete and an athlete agent shall have a notice printed near the space for the student athlete's signature which shall contain the following statement in ten (10) point bold face type:

"Warning: If you as a student athlete sign this contract, you may lose your eligibility to compete in intercollegiate athletics. Under Kentucky law, you are required to notify the athletic director or president of your college or university and the Kentucky Athlete Agent Regulatory Commission in writing before practicing for, or participating in, an athletic event on behalf of a college or university or within seventy-two (72) hours after entering into this contract, whichever occurs first. Failure to provide this notice is a criminal offense. Do not sign this contract until you have read it and filled in any blank spaces. You may cancel this contract by notifying the athlete agent in writing of your desire to cancel not later than the fifteenth day after the date you sign this contract. However, even if you cancel this contract, the intercollegiate athletic association or conference to which your college or university belongs may not restore your eligibility to participate in intercollegiate athletics."

(4) An agent contract which does not meet the requirements of subsections (1) and (3) of this section is void and unenforceable.

(5) Postdating of agent contracts is prohibited, and a postdated contract is void and unenforceable. Subsections (1) and (3) of this section are applicable to postdated contracts even though these contracts may be void and unenforceable. Execution of a postdated contract is a violation of this section, and an athlete agent committing the violation is subject to the penalty provisions of Sections 10 and 11 of this Act. A student athlete committing the violation is subject to the penalty provisions of subsection (4) of Section 11 of this Act.

(6) Within fifteen (15) days after the date on which the contractual relationship between the athlete agent and the student athlete arises or after notification of the contractual relationship is received by the athletic director or president of the college or university in which the student is enrolled and the commission, whichever occurs later, the student athlete has the right to rescind the contract or any contractual relationship with the athlete agent by giving notice in writing of his or her intent to rescind. The rescission is effective upon repayment by the student athlete to the athlete agent of any monetary amounts paid to the student athlete by the athlete agent, exclusive of travel, lodging, meals, and entertainment, or reimbursement for these items, furnished by the athlete agent to the student athlete. The student athlete may not effect a waiver of his or her right to rescind, and an attempt to do so is prohibited and unenforceable.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) A student athlete who is subject to the rules and regulations of an intercollegiate sports governing body, who has not competed in his or her last intercollegiate contest, including postseason games, for the applicable sport, and who negotiates for or enters into an oral or written agent contract with an athlete agent or a contract under which a student athlete is employed as a professional athlete, or accepts any monetary or in-kind benefit from an athlete agent, shall notify the athletic director or the president of the college or university in which he or she is enrolled and the commission that he or she has commenced negotiations or entered into a contract or has accepted these benefits. Written notification of negotiation or entering into a contract, regardless of the legal enforceability of the contract under this chapter or any other provision of law, or accepting any benefits from an athlete agent shall be given before practicing for or participating in an athletic event on behalf of a college or university within seventy-two (72) hours after commencing negotiations or entering into the contract, whichever occurs first.

(2) In addition to any other penalty of law provided, a student athlete who fails to provide this notification shall perform a minimum of seventy (70) hours of community service.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) A student athlete and athlete agent who negotiate or enter into an agent contract or accept any monetary or in-kind

benefits and fail to provide the notification required by this section are liable for actual damages to the college or university in which the student athlete is enrolled that results from the student athlete's subsequent ineligibility.

(2) For purposes of subsection (1) of this section, a college or university suffers actual damages if, because of activities of the person, the college or university is penalized or is disqualified or suspended from participation in intercollegiate athletics by a national association for the promotion and regulation of intercollegiate athletics, by an intercollegiate athletic conference, or by self-imposition and, because of that penalty, disqualification, or suspension, one of the following occurs to the institution:

(a) Loses revenue from media coverage of a sports contest;

(b) Loses the right to grant an athletic scholarship;

(c) Loses the right to recruit an athlete;

(d) Is prohibited from participating in postseason athletic competition;

(e) Forfeits an athletic contest; or

(f) Suffers an adverse financial impact.

(3) An institution that prevails in a suit brought under this section may recover the following:

(a) Actual damages;

(b) Punitive damages;

(c) Court costs; and

(d) Reasonable attorney's fees.

(4) In actions seeking relief under this section, the claim shall not have been considered as having accrued until the discovery by the aggrieved college or university of the alleged violation by the student athlete or the athlete agent, after which the college or university shall have two (2) years to bring an action.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The commission may investigate allegations of violations of provisions of Sections 1 to 11 of this Act or administrative regulations promulgated thereunder upon complaint or upon its own volition. The commission shall establish procedures by administrative regulation for receiving and investigating complaints.

(2) If the commission's investigation reveals evidence supporting the complaint, the commission shall take action to suspend, revoke, impose probationary or supervisory conditions or an administrative fine, issue a written reprimand, or any combination of actions regarding any registration under the provisions of Sections 1 to 11.

(3) The commission shall by administrative regulation classify types of offenses and the recommended administrative action to be taken. The type of action to be taken shall be based on the nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in Section 11 of this Act or under other provisions of law.

(4) Any disciplinary action imposed by the commission under this section may be appealed by the aggrieved party within thirty (30) days of receipt of notice, and upon appeal an administrative hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. Upon appeal, a disciplinary action may be stayed pending final disposition of the appeal, except for denial of registration or an emergency suspension imposed under KRS 13B.125, but only if the commission determines that a stay does not pose a threat to the honesty and integrity of intercollegiate sports in Kentucky, or cause damage to any college or university in Kentucky.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Any person who engages in the business of an athlete agent or represents himself or herself as an athlete agent without being registered in accordance with Sections 1 to 10 of this Act shall be guilty of a Class A misdemeanor.

(2) Any registered athlete agent who knowingly and willfully commits a prohibited act contained in Section 6 of this Act shall be guilty of a Class D felony.

(3) Any registered athlete agent who knowingly and willfully violates any provision of Section 7 of this Act shall be guilty of a Class D felony.

(4) A student athlete who knowingly and willfully violates any provision of Section 8 of this Act or subsection (5) of Section 7 of this Act shall be guilty of a Class A misdemeanor.

(5) Any registered athlete agent or athlete who fails to make restitution to a college or university that prevails in a suit brought under Section 9 of this Act shall be guilty of a Class D felony.

The Committee Substitute to **HB 703** is as follows:

AN ACT relating to regulation of athlete agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context requires otherwise:

(1) "Agent contract" means any contract or agreement pursuant to which an athlete authorizes or empowers an athlete agent to negotiate or solicit on behalf of the athlete with one (1) or more professional sports teams for the employment of the athlete by one (1) or more professional sports teams, or to negotiate or solicit on behalf of the athlete for the employment of the athlete as a professional athlete;

(2) "Athlete" means a student athlete or any person who is employed or seeks to be employed under a professional sports services contract with a professional sports team or as a professional athlete;

(3) "Athlete agent" means:

(a) Any person who, as part of a business enterprise or as an independent contractor, directly or indirectly recruits or solicits any athlete to enter into any agent contract or professional sports services contract, or for a fee procures, offers, promises, or attempts to obtain employment for any athlete with a professional sports team or as a professional athlete;

(b) Any member of the state bar of Kentucky or the bar of any other jurisdiction when advising athlete clients and when attempting to negotiate a professional sports services contract for that client; or

(c) Other than for registration purposes, any agent, subagent, employee, or runner of an athlete agent who receives compensation directly or indirectly to recruit any athlete to enter into any contract or negotiates any contract, or for a fee procures, offers, promises, or attempts to obtain employment for any athlete with a professional sports team or as a professional athlete.

Athlete agent does not include an employee or other representative of a professional sports team;

(4) "Commission" means the Kentucky Athlete Agent Regulatory Commission created under Section 2 of this Act;

(5) "Division" means the Division of Occupations and Professions;

(6) "Player association" or "buyer organization" means any association or organization that represents professional athletes in collective bargaining with management of professional sports teams;

(7) "Professional sports services contract" means a contract or agreement, written or oral, pursuant to which an athlete is employed or agrees to render services as a player on a professional sports team or as a professional athlete; and

(8) "Student athlete" means any one of the following:

(a) A student who resides in Kentucky and has informed, in writing, a college or university of the student's intent to participate in that school's intercollegiate athletics program and is eligible to do so;

(b) A student who does not reside in Kentucky, but has informed, in writing, a college or university in Kentucky of the student's intent to participate in that school's intercollegiate athletics, or who does participate in that school's intercollegiate athletics program and is eligible to do so; or

(c) A student who is enrolled and participates in a sport at a secondary school, college, or university in Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Athlete Agent Regulatory Commission is created to regulate athlete agents in the Commonwealth. The commission shall consist of twelve (12) members designated or appointed as follows:

(a) The athletic director or his or her designee of the following universities;

1. University of Kentucky;
2. University of Louisville;
3. Eastern Kentucky University;
4. Kentucky State University;
5. Morehead State University;
6. Murray State University;
7. Northern Kentucky University; and
8. Western Kentucky University;

(b) Four (4) members appointed by the Governor as follows:

1. A representative from a private college or university that engages in intercollegiate athletics who shall *be appointed from a list of at least three (3) candidates submitted by the Kentucky Association of Independent Colleges;*

2. A representative from high school athletics who shall be appointed from a list of at least three (3) candidates submitted by the Kentucky High School Athletic Association; and

3. Two (2) public members who shall have no direct affiliation with any Kentucky college or university and no financial interest in any professional sports organization or sports agency. At least one (1) of the public members shall have been a former student athlete at a Kentucky college or university.

(2) All commission members appointed under subsection (1)(b) of this section shall be appointed for a term of four (4) years. Commission members shall not be allowed to serve more than two (2) consecutive full terms.

(3) The appointed members of the commission shall receive one hundred dollars ($100) per diem compensation for their services on the board, and shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(4) The commission shall annually elect a chair, a vice chair, and any other officers as the commission deems necessary.

(5) The commission shall hold at least two (2) meetings annually and additional meetings as it may deem necessary. The additional meetings may be held upon call of the chair or upon written request of seven (7) members. Seven (7) members of the commission shall constitute a quorum to conduct business.

(6) Upon recommendation of the commission, the Governor may remove any member of the board for neglect of duty or malfeasance in office. A vacancy in membership shall be filled in the same manner as an original appointment.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Kentucky Athlete Agent Regulatory Commission shall have the following powers and duties:

(1) Accept applications for registration as an athlete agent, conduct background checks on applicants, and register qualified applicants;

(2) Keep records on all registrants and on commission proceedings and other records as may be necessary to exercise the commission's powers and duties;

(3) Require the submission of reports by registered athlete agents as necessary;

(4) Publish annually a directory of athlete agents registered in Kentucky;

(5) Establish a process for receiving complaints against athlete agents;

(6) Investigate valid complaints and take appropriate disciplinary action;

(7) Upon appeal of disciplinary actions, hold administrative hearings in accordance with the provisions of KRS Chapter 13B;

(8) Refer violations of criminal statutes to the appropriate prosecutors for action;

(9) Perform other duties and functions as the commission may find necessary to effectively carry out its statutory responsibilities; and

(10) Promulgate necessary administrative regulations in accordance with KRS Chapter 13A as may be necessary to effectively discharge all powers and duties duly conferred on it.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Athlete Agent Regulatory Commission shall be administratively assigned to the Division of Occupations and Professions. The division shall provide administrative services and logistical support as may be necessary for the commission to function. The cost of these services shall be paid from moneys deposited in the revolving fund established in subsection (2) of this section. Investigative and legal services relative to allegations of wrongdoing shall be provided by the colleges and universities represented on the commission, at the request of the commission.

(2) All registration fees, fines, other moneys received by the commission under the provisions of Sections 1 to 11 of this Act and accrued interest shall be deposited in the State Treasury to the credit of a revolving fund. The revolving fund shall be used only for valid expenditures incurred by the commission in the registration and regulation of athlete agents. No part of this revolving fund shall revert to the general fund of the Commonwealth.

(3) Subject to approval of the commission, the revolving fund shall pay for:

(a) As described in subsection (3) of Section 2 of this Act, the compensation of commission members and reimbursement for actual and necessary expenses incurred in the performance of official duties;

(b) The compensation of all of the employees of the division employed or assigned to perform duties of the commission; and

(c) All operating expenses and capital expenditures incurred in fulfilling the commission's powers and duties as described in Section 3 of this Act and administrative regulations promulgated thereunder.

(4) If moneys received and deposited in the revolving fund under subsection (2) of this section are not sufficient to cover the cost of operating the commission, the commission shall assess the state universities of the members listed under subsection (1)(a) of Section 2 of this Act for the difference between moneys accrued under subsection (2) of this section and actual operating costs. The assessments shall be prorated based on student enrollment, and the money received shall be deposited in the revolving fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) No person shall engage in business as an athlete agent or represent himself or herself as an athlete agent unless he or she is registered with the Kentucky Athlete Agent Regulatory Commission under this section.

(2) To register as an athlete agent, a person shall:

(a) Complete and submit to the commission an application on forms provided by the commission;

(b) Pay a registration fee and an annual renewal fee to be established by the commission but not to exceed three hundred dollars ($300);

(c) Submit evidence to the commission that one (1) of the following is in full force and effect:

1. A surety bond payable to the State Treasurer in the sum of one hundred thousand dollars ($100,000); or

2. Malpractice insurance in effect with a minimum of one hundred thousand dollars ($100,000) coverage per incident; or

3. Cash, a certificate of deposit, bearer bonds, other negotiable instruments, or an assigned savings account in the amount of one hundred thousand dollars ($100,000) deposited with or assigned to the commission; and

4. Affirm in the application that he or she will comply with the provisions of Sections 1 to 11 of this Act and all administrative regulations duly promulgated thereunder.

(3) A person shall be denied registration as an athlete agent if he or she:

(a) Fails to comply with subsection (2) of this section;

(b) Has been convicted within the last ten (10) years of any felony or any misdemeanor that in the judgment of the commission would render the applicant unfit to be an athlete agent; or

(c) Has had a license, certificate, or registration denied or revoked by any other state for reasons that would constitute grounds for denial or revocation of registration in Kentucky.

(4) A registered athlete agent shall establish complete financial and business records and maintain them for a period of at least four (4) years. All financial and business records shall be made available to the commission or commission staff upon request and at reasonable hours.

(5) A registered athlete agent shall submit reports on his or her activities within the Commonwealth with the content and frequency of reporting determined by administrative regulation promulgated by the commission.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

No athlete agent shall engage in the following acts:

(1) Making false or misleading statements of a material nature in his or her application for registration.

(2) Misappropriating funds, or engaging in other specific acts such as embezzlement, theft, or fraud, which would render him or her unfit to serve in a fiduciary capacity.

(3) Engaging in other conduct that significantly impacts adversely on his or her credibility, integrity, or competence to serve in a fiduciary capacity.

(4) Engaging in conduct which violates or causes a student athlete to violate any rule or regulation promulgated by an intercollegiate sports governing body.

(5) Failure to include the agent's name in any advertising relating to the business of an athlete agent. Advertising shall not include clothing or novelty items.

(6) Publishing or causing to be published false or misleading information or advertisements, or giving any false information or making false promises to a student athlete concerning employment or financial services.

(7) Offering anything of value to any person to induce a student athlete to enter into an agreement by which the agent will represent the student athlete. Negotiation regarding the agent's fee shall not, however, be considered an inducement.

(8) Accepting as a client a student athlete referred by, or in exchange for, any consideration made to an employee of, or

a coach for, a college or university.

(9) Committing mismanagement or misconduct as an agent which causes financial harm to a student athlete or college or university.

(10) Sending a student athlete written materials without simultaneously sending an identical copy of the written materials to the athletics director, or the director's designee, of the college or university in which the student athlete is enrolled or to which the student athlete has provided written intent to participate in intercollegiate athletics.

(11) Contacting a student athlete without the student athlete having first initiated the contact with the athlete agent and the athlete agent having given prior notice to the college or university in which the student athlete is enrolled or to which the student athlete has provided a written intent to participate in intercollegiate athletics.

(12) Engaging in conduct which results in an athlete losing eligibility to participate in intercollegiate athletics as a member of a sports team of an institution of higher education.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in this section, all contracts to be utilized by athlete agents shall be on a form approved by the commission. This approval shall not be withheld as to any proposed form of agent contract unless the proposed form of agent contract is unfair, unjust, and oppressive to the athlete. Each form of agent contract shall contain an agreement by the athlete agent to refer any controversy between the athlete and the athlete agent relating to the terms of the agent contract to the commission for adjustment. There shall be printed on the face of the agent contract in prominent type the following: "This athlete agent is registered with the Kentucky Athlete Agent Regulatory Commission. Registration does not imply approval by the commission of the terms and conditions of this contract or the competence of the athlete agent."

(2) An athlete agent who negotiates or enters into an oral or written agent contract with a student athlete or provides any monetary or in-kind benefits to a student athlete who is subject to the rules and regulations of an intercollegiate sports governing body shall notify the athletic director or the president of the college or university in which the student athlete is enrolled and the commission that the athlete agent negotiated or has entered into a contract or has provided monetary or in-kind benefits to a student athlete. Written notification of the contract, regardless of the legal enforceability of the contract under this chapter or any other provision of law, or of accepting any benefits from an athlete agent shall be given before the student athlete practices for, or participates in, an athletic event on behalf of a college or university or within seventy-two (72) hours after entering into the contract or providing the benefits, whichever occurs first.

(3) An agent contract between a student athlete and an athlete agent shall have a notice printed near the space for the student athlete's signature which shall contain the following statement in ten (10) point bold face type:

"Warning: If you as a student athlete sign this contract, you may lose your eligibility to compete in intercollegiate athletics. Under Kentucky law, you are required to notify the athletic director or president or your college or university and the Kentucky Athlete Agent Regulatory Commission in writing before practicing for, or participating in, an athletic event on behalf of a college or university or within seventy-two (72) hours after entering into this contract, whichever occurs first. Failure to provide this notice is a criminal offense. Do not sign this contract until you have read it and filled in any blank spaces. You may cancel this contract by notifying the athlete agent in writing of your desire to cancel not later than the fifteenth day after the date you sign this contract. However, even if you cancel this contract, the intercollegiate athletic association or conference to which your college or university belongs may not restore your eligibility to participate in intercollegiate athletics."

(4) An agent contract which does not meet the requirements of subsections (1) and (3) of this section is void and unenforceable.

(5) Postdating of agent contracts is prohibited, and a postdated contract is void and unenforceable. Subsections (1) and (3) of this section are applicable to postdated contracts even though these contracts may be void and unenforceable. Execution of a postdated contract is a violation of this section, and an athlete agent committing the violation is subject to the penalty provisions of Sections 10 and 11 of this Act. A student athlete committing the violation is subject to the penalty provisions of subsection (4) of Section 11 of this Act.

(6) Within fifteen (15) days after the date on which the contractual relationship between the athlete agent and the student athlete arises or after notification of the contractual relationship is received by the athletic director or president of the college or university in which the student is enrolled and the commission, whichever occurs later, the student athlete has the right to rescind the contract or any contractual relationship with the athlete agent by giving notice in writing of his or her intent to rescind. The rescission is effective upon repayment by the student athlete to the athlete agent of any monetary amounts paid to the student athlete by the athlete agent, exclusive of travel, lodging, meals, and entertainment, or reimbursement for these items, furnished by the athlete agent to the student athlete. The student athlete may not effect a waiver of his or her right to rescind, and an attempt to do so is prohibited and unenforceable.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) A student athlete who is subject to the rules and regulations of an intercollegiate sports governing body, who has not competed in his or her last intercollegiate contest, including postseason games, for the applicable sport, and who negotiates for or enters into an oral or written agent contract with an athlete agent or a contract under which a student athlete is employed as a professional athlete, or accepts any monetary or in-kind benefit from an athlete agent, shall notify the athletic director or the president of the college or university in which he or she is enrolled and the commission that he or she has commenced negotiations or entered into a contract or has accepted these benefits. Written notification of negotiation or entering into a contract, regardless of the legal enforceability of the contract under this chapter or any other provision of law, or accepting any benefits from an athlete agent shall be given before practicing for or participating in an athletic event on behalf of a college or university within seventy-two (72) hours after commencing negotiations or entering into the contract, whichever occurs first.

(2) In addition to any other penalty of law provided, a student athlete who fails to provide this notification shall perform a minimum of seventy (70) hours of community service.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) A student athlete and athlete agent who negotiate or enter into an agent contract or accept any monetary or in-kind benefits and fail to provide the notification required by this section are liable for actual damages to the college or university in which the student athlete is enrolled that results from the student athlete's subsequent ineligibility.

(2) For purposes of subsection (1) of this section, a college or university suffers actual damages if, because of activities of the person, the college or university is penalized or is disqualified or suspended from participation in intercollegiate athletics by a national association for the promotion and regulation of intercollegiate athletics, by an intercollegiate athletic conference, or by self-imposition and, because of that penalty, disqualification, or suspension, one of the following occurs to the institution:

  (a) Loses revenue from media coverage of a sports contest;

  (b) Loses the right to grant an athletic scholarship;

  (c) Loses the right to recruit an athlete;

  (d) Is prohibited from participating in postseason athletic competition;

  (e) Forfeits an athletic contest; or

  (f) Suffers an adverse financial impact.

(3) An institution that prevails in a suit brought under this section may recover the following:

  (a) Actual damages;

  (b) Punitive damages;

  (c) Court costs; and

  (d) Reasonable attorney's fees.

(4) In actions seeking relief under this section, the claim shall not have been considered as having accrued until the discovery by the aggrieved college or university of the alleged violation by the student athlete or the athlete agent, after which the college or university shall have two (2) years to bring an action.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The commission may investigate allegations of violations of provisions of Sections 1 to 11 of this Act or administrative regulations promulgated thereunder upon complaint or upon its own volition. The commission shall establish procedures by administrative regulation for receiving and investigating complaints.

(2) If the commission's investigation reveals evidence supporting the complaint, the commission shall take action to suspend, revoke, impose probationary or supervisory conditions or an administrative fine, issue a written reprimand, or any combination of actions regarding any registration under the provisions of Sections 1 to 11.

(3) The commission shall by administrative regulation classify types of offenses and the recommended administrative action to be taken. The type of action to be taken shall be based on the nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in Section 11 of this Act or under other provisions of law.

(4) Any disciplinary action imposed by the commission under this section may be appealed by the aggrieved party within thirty (30) days of receipt of notice, and upon appeal an administrative hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. Upon appeal, a disciplinary action may be stayed pending final disposition of the appeal, except for denial of registration or an emergency suspension imposed under KRS 13B.125, but only if the commission determines that a stay does not pose a threat to the honesty and integrity of intercollegiate sports in Kentucky, or cause damage to any college or university in Kentucky.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Any person who engages in the business of an athlete agent or represents himself or herself as an athlete agent without being registered in accordance with Sections 1 to 10 of this Act shall be guilty of a Class A misdemeanor.

(2) Any registered athlete agent who knowingly and willfully commits a prohibited act contained in Section 6 of this Act shall be guilty of a Class D felony.

(3) Any registered athlete agent who knowingly and willfully violates any provision of Section 7 of this Act shall be guilty of a Class D felony.

(4) A student athlete who knowingly and willfully violates any provision of Section 8 of this Act or subsection (5) of Section 7 of this Act shall be guilty of a Class A misdemeanor.

(5) Any registered athlete agent or athlete who fails to make restitution to a college or university that prevails in a suit brought under Section 9 of this Act shall be guilty of a Class D felony.

Section 12. KRS 518.010 is amended to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1)[~~"Agent contract" means any contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of the person with one (1) or more professional sports teams for the employment of the person as a professional athlete.~~

~~(2)~~] "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

[~~(3) "Contractual relationship" means an agreement between a sports agent and student athlete under which the sports agent agrees to:~~

~~(a) Obtain or attempt to obtain employment for the student athlete with a professional sports team or as a professional athlete;~~

~~(b) Provide loans, advances of money, services, or other material goods to further the student athlete's pursuit of a career in professional sports; or~~

~~(c) Represent the student athlete in any manner related to the student athlete's pursuit of a career in professional sports or as a professional athlete.~~

~~(4) "Eligibility" means the period of time during which a student athlete is enrolled as a student at an institution and is permitted to compete in intercollegiate athletic events. A student athletic shall remain eligible unless he is rendered ineligible or declares his intent in writing, to forego any remaining eligibility.~~]

(2)[~~(5)~~] "Event" means a sports contest or other public performance to which the general public is not admitted without consideration.

[~~(6) "Institution" means a public or private institution that offers educational services at or beyond the secondary level.~~

~~(7) "Professional sport services contract" means a contract or agreement pursuant to which a person is employed or agrees to render services as a player on a professional sports team or as a professional athlete.~~]

(3)[~~(8)~~] "Public performance" means any form of entertainment other than a sports contest involving machines, persons, animals, or objects that is viewed by the public.

[~~(9) "Sports agent" means a person who solicits, personally or through an agent or employee, a student athlete to enter into a contractual relationship. "Sports agent" does not include an attorney acting as legal counsel for the student athlete.~~]

(4)[~~(10)~~] "Sports contest" means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons, animals, or objects that is viewed by the public.

(5)[~~(11)~~] "Sports official" means any person who acts or expects to act in a sports contest as an umpire, referee, or judge, or otherwise to officiate at a sports contest.

(6)[~~(12)~~] "Sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant, or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant, or team.

[~~(13) "Student athlete" means a student who competes individually or as a member of a team at an institution or who is eligible and competes individually or as a member of a team in intercollegiate athletic events.~~]

Section 13. The following KRS section is repealed:

518.080 Unauthorized sports agency practices.

HB 728, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

Any person selling alcoholic beverages shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective buyer or recipient is under the age of twenty-one (21).

SECTION 2. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) Each owner of a retail establishment selling or distributing alcoholic beverages shall notify each individual employed in the retail establishment that the sale of alcoholic beverages to any person under the age of twenty-one (21) years and the purchase of alcoholic beverages by any person under the age of twenty-one (21) years are prohibited.

(2) Each owner of a retail establishment selling or distributing alcoholic beverages shall notify each individual employed in the retail establishment as a retail sales clerk that proof of age is required from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of twenty-one (21).

(3) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on July 15, 1998, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute alcoholic beverages to persons under the age of twenty-one (21) years and that it is illegal for persons under the age of twenty-one (21) years to purchase alcoholic beverages."

(4) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (3) of this section in a place and in a manner so as to be easily accessible to any board employee conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of alcoholic beverages to persons under the age of twenty-one (21).

SECTION 3. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) The board shall carry out random, unannounced inspections of retail establishments where alcoholic beverages are sold or distributed for the purpose of enforcing the provisions of this chapter. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of this chapter only if the testing is conducted under the direct supervision of the board, sheriff, or chief of police, or their employees, and written parental consent has been obtained.

Section 4. KRS 244.990 is amended to read as follows:

(1) Any person who, by himself ***or herself*** or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided, except KRS 244.380 to 244.470, shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he ***or she*** shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association, or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(2) Any person who violates KRS 244.170 shall, upon the first conviction, be guilty of a Class A misdemeanor. Upon a second conviction he ***or she*** shall be guilty of a Class D felony. Upon the third and each subsequent conviction, he ***or she*** shall be guilty of a Class C felony.

(3) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be guilty of a violation.

(4) Any person, firm, or corporation violating any provision of KRS 244.083 and 244.085 shall be guilty of a violation and each violation shall constitute a separate offense.

(5) Any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be guilty of a violation, and for each subsequent offense shall be guilty of a Class A misdemeanor.

(6) Any person who violates KRS 244.125 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(7) Any person who violates a provision of Sections 1 or 2 of this Act shall be guilty of a Class A misdemeanor.

HB 757, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 242.1292 is amended to read as follows:

(1) The provisions of this section shall be applicable in any city of the second class notwithstanding any other provisions of this chapter relating to the discontinuance of prohibition in any county, city, or territory which may be to the contrary.

(2) In any city of the second class in which prohibition is in effect in all or part of the city, and upon a determination that an economic hardship exists in one (1) or more of the voting precincts of the city in the manner prescribed in subsection ***(11)***[~~(10)~~] of this section, the governing body of the city shall by ordinance designate ***the***[~~such~~] precinct or precincts as a limited sale precinct or precincts and shall provide for an election to be held in ***the***[~~such~~] precinct or precincts to take the sense of the people of each[~~ such~~] precinct as to the discontinuance of prohibition in ***that***[~~such~~] precinct.

(3) The election shall be held in ***the***[~~such~~] precinct or precincts in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120. ***The***[~~Such~~] election shall not be deemed to be an election in the "same territory" within the meaning of subsection (5) of KRS 242.030;[~~ provided,~~] however,[~~ that~~] no election on the same question shall be held in the same precinct or precincts more often than once every five (5) years.

(4) The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?"

(5) If a majority of the votes cast in any limited sale precinct in which an election is held ***under***[~~pursuant to~~] this section are in favor of the sale of alcoholic beverages in that precinct, the governing body of the city shall by ordinance create or provide for the office of city alcoholic beverage control administrator***.***[~~ and ~~]

(6) The governing body of the city shall adopt ***the***[~~ a~~] comprehensive regulatory ordinance covering the licensing and operation of establishments for the sale ***and distribution*** of alcoholic beverages***, including, but not limited to, distilled spirits and malt beverages,*** within a limited sale precinct ***as set forth in this section. In relation to the ordinances established by a city of the second class under this subsection and subsection (7) of this section, review by the board, if any, shall be limited to a determination that the ordinances do not exceed the sale and distribution limits established by statute, or administrative regulations promulgated by the board under those statutes***. In its discretion the governing body ***shall***[~~may~~] provide ***without review by the board*** that:

(a) Only three (3) licenses permitting the package sale at retail of alcoholic beverages shall be granted within the territorial limits of any limited sale precinct.

(b) Only four (4) licenses to sell alcoholic beverages by the drink for consumption on the premises by the general public shall be granted in any one (1) limited sale precinct. One (1)[~~ such~~] license in each limited sale precinct may be reserved for[~~ grant to~~] any newly established hotel, motel***,*** or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons. The remaining three (3) licenses may be granted to a hotel, motel***,*** or inn meeting the aforestated requirements or to bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons***.***[~~; and further provided that~~] Additional licenses to sell alcoholic beverages by the drink for consumption on the premises may be granted to social membership clubs established and maintained for the benefit of members ***of***[~~only by~~] bona fide fraternal or veterans organizations.

(7)[~~(6)~~] The governing body ***of the city*** may also incorporate in the regulatory ordinance ***any***[~~ such~~] other reasonable rules and regulations as ***it deems,***[~~ may be~~] necessary or desirable for the proper administration and enforcement of this section***,***[~~ and~~] for the maintenance of public order in a limited sale precinct, and for the issuance of any licenses permitted by KRS 243.070[~~; provided that any rule or regulation adopted in the regulatory ordinance shall conform to the requirements of KRS 241.190~~].

(8)[~~(7)~~] Notwithstanding any limitations imposed on the city's taxing or licensing power by KRS 243.070***,*** upon the discontinuance of prohibition in any limited sale precinct, the governing body of the city is hereby authorized to impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city budget period at ***the***[~~such~~] percentage rate as shall be reasonably estimated to fully reimburse the city for the estimated costs of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. ***The***[~~Such~~] regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against ***the***[~~such~~] fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070.

(9)[~~(8)~~] Subject to the limitation imposed by subsection (3) of this section, no provision contained in this section providing for the establishment of a limited sale precinct shall preclude or abridge the right of the constitutionally qualified voters of ***the***[~~such~~] precinct to petition for a subsequent election on the same question.

(10)[~~(9)~~] If an election is held pursuant to other provisions of KRS Chapter 242 in the city or the county in which a limited sale precinct is located for the purpose of taking the sense of the voters upon the question of adopting or repealing prohibition for the entire city or the entire county, the status of ***that***[~~such~~] question in a limited sale precinct shall be determined in the following manner:

(a) The status of a limited sale precinct shall not be affected by any election for the entire city or the entire county if ***the***[~~such~~] limited sale precinct was established less than five (5) years prior to the date of the proposed election for the entire city or the entire county and in such case the voters of any limited sale precinct shall not vote in

the[~~such~~] election.

(b) If ***the***[~~such~~] limited sale precinct was established more than five (5) years prior to the date of the proposed election for the entire city or the entire county, the voters within each limited sale precinct shall be presented with the question, "Are you in favor of continuing the sale of alcoholic beverages in (official name and designation of precinct) as a limited sale precinct?" No other question shall be presented to the voters of any limited sale precinct.

(c) The votes of each limited sale precinct shall be counted separately, and, if a majority of the votes cast in the limited sale precinct are in favor of continuing the sale of alcoholic beverages therein as a limited sale precinct, then ***the***[~~such~~] status shall continue within ***the***[~~such~~] precinct, except that if the city or the county in which the limited sale precinct is located votes against prohibition in the remainder of the city or the county, the limited sale precinct status of any precinct may be terminated by the governing body of the city or the county and thereafter the status of such precinct shall be the same as that in effect for the remainder of the city or the county.

(11)[~~(10)~~] Any precinct located entirely within any city of the second class in which prohibition is in effect in all or part of the city shall be designated as a limited sale precinct by the governing body of the city; provided that:

(a) The governing body determines to its satisfaction that the general trade, business***,*** and economy of one (1) or more of the precincts within the city is substantially***,*** adversely affected by[~~ reason of~~] the legal sale of alcoholic beverages in any neighboring or adjoining state, county, city, town, district***,*** or precinct. For the purpose of making ***this***[~~such~~] determination, the governing body may hold[~~ such~~] hearings, examine[~~ such~~] witnesses***,*** or receive[~~ such~~] evidence as it believes necessary or desirable for ***the***[~~such~~] purpose; or

(b) The governing body receives a petition signed by a number of constitutionally qualified voters of a precinct equal to thirty-three percent (33%) of the votes cast in the precinct at the last preceding general election requesting the governing body of the city to designate such precinct as a limited sale precinct. The petition may consist of one (1) or more separate units and shall be filed with the mayor of the city. In addition to the name of the voter, the petition shall also state his post office address and the correct date upon which his name is signed. Upon receipt of the petition, the mayor shall cause the same to be presented to the governing body of the city at its next regularly scheduled meeting and, after verifying that such petition is in compliance with the requirements of this section, the governing body shall forthwith by ordinance designate the precinct to be a limited sale precinct.

The Committee Substitute to **HB 757** is as follows:

AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 242.1292 is amended to read as follows:

(1) The provisions of this section shall be applicable in any city of the second class notwithstanding any other provisions of this chapter relating to the discontinuance of prohibition in any county, city, or territory which may be to the contrary.

(2) In any city of the second class in which prohibition is in effect in all or part of the city, and upon a determination that an economic hardship exists in one (1) or more of the voting precincts of the city in the manner prescribed in subsection ***(11)***[~~(10)~~] of this section, the governing body of the city shall by ordinance designate ***the***[~~such~~] precinct or precincts as a limited sale precinct or precincts and shall provide for an election to be held in ***the***[~~such~~] precinct or precincts to take the sense of the people of each[~~ such~~] precinct as to the discontinuance of prohibition in ***that***[~~such~~] precinct.

(3) The election shall be held in ***the***[~~such~~] precinct or precincts in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120. ***The***[~~Such~~] election shall not be deemed to be an election in the "same territory" within the meaning of subsection (5) of KRS 242.030;[~~ provided,~~] however,[~~ that~~] no election on the same question shall be held in the same precinct or precincts more often than once every five (5) years.

(4) The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?"

(5) If a majority of the votes cast in any limited sale precinct in which an election is held ***under***[~~pursuant to~~] this section are in favor of the sale of alcoholic beverages in that precinct, the governing body of the city shall by ordinance create or provide for the office of city alcoholic beverage control administrator***.***[~~ and ~~]

(6) The governing body of the city shall adopt ***the***[~~ a~~] comprehensive regulatory ordinance covering the licensing and operation of establishments for the sale of alcoholic beverages***, including, but not limited to, distilled spirits and malt beverages,*** within a limited sale precinct ***as set forth in this section. In relation to the ordinances established by a city of the second class under this subsection and subsection (7) of this section, review by the board, if any, shall be limited to a determination that the ordinances do not exceed the limits established for sale by statute, or***

(2) In any city of the second class in which prohibition is in effect in all or part of the city, and upon a determination that an economic hardship exists in one (1) or more of the voting precincts of the city in the manner prescribed in subsection ***(11)***[~~(10)~~] of this section, the governing body of the city shall by ordinance designate ***the***[~~such~~] precinct or precincts as a limited sale precinct or precincts and shall provide for an election to be held in ***the***[~~such~~] precinct or precincts to take the sense of the people of each[~~ such~~] precinct as to the discontinuance of prohibition in ***that***[~~such~~] precinct.

(3) The election shall be held in ***the***[~~such~~] precinct or precincts in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120. ***The***[~~Such~~] election shall not be deemed to be an election in the "same territory" within the meaning of subsection (5) of KRS 242.030;[~~ provided,~~] however,[~~ that~~] no election on the same question shall be held in the same precinct or precincts more often than once every five (5) years.

(4) The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?"

(5) If a majority of the votes cast in any limited sale precinct in which an election is held ***under***[~~pursuant to~~] this section are in favor of the sale of alcoholic beverages in that precinct, the governing body of the city shall by ordinance create or provide for the office of city alcoholic beverage control administrator***.***[~~ and ~~]

(6) The governing body of the city shall adopt ***the***[~~ a~~] comprehensive regulatory ordinance covering the licensing and operation of establishments for the sale ***and distribution*** of alcoholic beverages***, including, but not limited to, distilled spirits and malt beverages,*** within a limited sale precinct ***as set forth in this section. In relation to the ordinances established by a city of the second class under this subsection and subsection (7) of this section, review by the board, if any, shall be limited to a determination that the ordinances do not exceed the sale and distribution limits established by statute, or administrative regulations promulgated by the board under those statutes***. In its discretion the governing body ***shall***[~~may~~] provide ***without review by the board*** that:

(a) Only three (3) licenses permitting the package sale at retail of alcoholic beverages shall be granted within the territorial limits of any limited sale precinct.

(b) Only four (4) licenses to sell alcoholic beverages by the drink for consumption on the premises by the general public shall be granted in any one (1) limited sale precinct. One (1)[~~ such~~] license in each limited sale precinct may be reserved for[~~ grant to~~] any newly established hotel, motel***,*** or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons. The remaining three (3) licenses may be granted to a hotel, motel***,*** or inn meeting the aforestated requirements or to bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons***.***[~~; and further provided that~~] Additional licenses to sell alcoholic beverages by the drink for consumption on the premises may be granted to social membership clubs established and maintained for the benefit of members ***of***[~~only by~~] bona fide fraternal or veterans organizations.

(7)[~~(6)~~] The governing body ***of the city*** may also incorporate in the regulatory ordinance ***any***[~~ such~~] other reasonable rules and regulations as ***it deems,***[~~ may be~~] necessary or desirable for the proper administration and enforcement of this section***,***[~~ and~~] for the maintenance of public order in a limited sale precinct, and for the issuance of any licenses permitted by KRS 243.070[~~; provided that any rule or regulation adopted in the regulatory ordinance shall conform to the requirements of KRS 241.190~~].

(8)[~~(7)~~] Notwithstanding any limitations imposed on the city's taxing or licensing power by KRS 243.070***,*** upon the discontinuance of prohibition in any limited sale precinct, the governing body of the city is hereby authorized to impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city budget period at ***the***[~~such~~] percentage rate as shall be reasonably estimated to fully reimburse the city for the estimated costs of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. ***The***[~~Such~~] regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against ***the***[~~such~~] fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070.

(9)[~~(8)~~] Subject to the limitation imposed by subsection (3) of this section, no provision contained in this section providing for the establishment of a limited sale precinct shall preclude or abridge the right of the constitutionally qualified voters of ***the***[~~such~~] precinct to petition for a subsequent election on the same question.

(10)[~~(9)~~] If an election is held pursuant to other provisions of KRS Chapter 242 in the city or the county in which a limited sale precinct is located for the purpose of taking the sense of the voters upon the question of adopting or repealing prohibition for the entire city or the entire county, the status of ***that***[~~such~~] question in a limited sale precinct shall be determined in the following manner:

(a) The status of a limited sale precinct shall not be affected by any election for the entire city or the entire county if ***the***[~~such~~] limited sale precinct was established less than five (5) years prior to the date of the proposed election for the entire city or the entire county and in such case the voters of any limited sale precinct shall not vote in

the[~~such~~] election.

(b) If ***the***[~~such~~] limited sale precinct was established more than five (5) years prior to the date of the proposed election for the entire city or the entire county, the voters within each limited sale precinct shall be presented with the question, "Are you in favor of continuing the sale of alcoholic beverages in (official name and designation of precinct) as a limited sale precinct?" No other question shall be presented to the voters of any limited sale precinct.

(c) The votes of each limited sale precinct shall be counted separately, and, if a majority of the votes cast in the limited sale precinct are in favor of continuing the sale of alcoholic beverages therein as a limited sale precinct, then ***the***[~~such~~] status shall continue within ***the***[~~such~~] precinct, except that if the city or the county in which the limited sale precinct is located votes against prohibition in the remainder of the city or the county, the limited sale precinct status of any precinct may be terminated by the governing body of the city or the county and thereafter the status of such precinct shall be the same as that in effect for the remainder of the city or the county.

(11)[~~(10)~~] Any precinct located entirely within any city of the second class in which prohibition is in effect in all or part of the city shall be designated as a limited sale precinct by the governing body of the city; provided that:

(a) The governing body determines to its satisfaction that the general trade, business, and economy of one (1) or more of the precincts within the city is substantially, adversely affected by[~~ reason of~~] the legal sale of alcoholic beverages in any neighboring or adjoining state, county, city, town, district, or precinct. For the purpose of making ***this***[~~such~~] determination, the governing body may hold[~~ such~~] hearings, examine[~~ such~~] witnesses, or receive[~~ such~~] evidence as it believes necessary or desirable for ***the***[~~such~~] purpose; or

(b) The governing body receives a petition signed by a number of constitutionally qualified voters of a precinct equal to thirty-three percent (33%) of the votes cast in the precinct at the last preceding general election requesting the governing body of the city to designate such precinct as a limited sale precinct. The petition may consist of one (1) or more separate units and shall be filed with the mayor of the city. In addition to the name of the voter, the petition shall also state his post office address and the correct date upon which his name is signed. Upon receipt of the petition, the mayor shall cause the same to be presented to the governing body of the city at its next regularly scheduled meeting and, after verifying that such petition is in compliance with the requirements of this section, the governing body shall forthwith by ordinance designate the precinct to be a limited sale precinct.

The Committee Substitute to **HB 757** is as follows:

AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 242.1292 is amended to read as follows:

(1) The provisions of this section shall be applicable in any city of the second class notwithstanding any other provisions of this chapter relating to the discontinuance of prohibition in any county, city, or territory which may be to the contrary.

(2) In any city of the second class in which prohibition is in effect in all or part of the city, and upon a determination that an economic hardship exists in one (1) or more of the voting precincts of the city in the manner prescribed in subsection ***(11)***[~~(10)~~] of this section, the governing body of the city shall by ordinance designate ***the***[~~such~~] precinct or precincts as a limited sale precinct or precincts and shall provide for an election to be held in ***the***[~~such~~] precinct or precincts to take the sense of the people of each[~~ such~~] precinct as to the discontinuance of prohibition in ***that***[~~such~~] precinct.

(3) The election shall be held in ***the***[~~such~~] precinct or precincts in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120. ***The***[~~Such~~] election shall not be deemed to be an election in the "same territory" within the meaning of subsection (5) of KRS 242.030;[~~ provided,~~] however,[~~ that~~] no election on the same question shall be held in the same precinct or precincts more often than once every five (5) years.

(4) The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?"

(5) If a majority of the votes cast in any limited sale precinct in which an election is held ***under***[~~pursuant to~~] this section are in favor of the sale of alcoholic beverages in that precinct, the governing body of the city shall by ordinance create or provide for the office of city alcoholic beverage control administrator.[~~ and ~~]

(6) The governing body of the city shall adopt ***the***[~~ a~~] comprehensive regulatory ordinance covering the licensing and operation of establishments for the sale of alcoholic beverages***, including, but not limited to, distilled spirits and malt beverages,*** within a limited sale precinct ***as set forth in this section. In relation to the ordinances established by a city of the second class under this subsection and subsection (7) of this section, review by the board, if any, shall be limited to a determination that the ordinances do not exceed the limits established for sale by statute, or***

administrative regulations promulgated by the board under those statutes. In its discretion the governing body ***shall***[~~may~~] provide ***without review by the board*** that:

(a) Only three (3) licenses permitting the package sale at retail of alcoholic beverages shall be granted within the territorial limits of any limited sale precinct.

(b) Only four (4) licenses to sell alcoholic beverages by the drink for consumption on the premises by the general public shall be granted in any one (1) limited sale precinct. One (1)[~~ such~~] license in each limited sale precinct may be reserved for[~~ grant to~~] any newly established hotel, motel***,*** or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons. The remaining three (3) licenses may be granted to a hotel, motel***,*** or inn meeting the aforestated requirements or to bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons***.***[~~; and further provided that~~] Additional licenses to sell alcoholic beverages by the drink for consumption on the premises may be granted to social membership clubs established and maintained for the benefit of members ***of***[~~only by~~] bona fide fraternal or veterans organizations.

(7)[~~(6)~~] The governing body ***of the city*** may also incorporate in the regulatory ordinance ***any***[~~ such~~] other reasonable rules and regulations as ***it deems,***[~~ may be~~] necessary or desirable for the proper administration and enforcement of this section***,***[~~ and~~] for the maintenance of public order in a limited sale precinct, and for the issuance of any licenses permitted by KRS 243.070[~~; provided that any rule or regulation adopted in the regulatory ordinance shall conform to the requirements of KRS 241.190~~].

(8)[~~(7)~~] Notwithstanding any limitations imposed on the city's taxing or licensing power by KRS 243.070***,*** upon the discontinuance of prohibition in any limited sale precinct, the governing body of the city is hereby authorized to impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city budget period at ***the***[~~such~~] percentage rate as shall be reasonably estimated to fully reimburse the city for the estimated costs of any additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. ***The***[~~Such~~] regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against ***the***[~~such~~] fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070.

(9)[~~(8)~~] Subject to the limitation imposed by subsection (3) of this section, no provision contained in this section providing for the establishment of a limited sale precinct shall preclude or abridge the right of the constitutionally qualified voters of ***the***[~~such~~] precinct to petition for a subsequent election on the same question.

(10)[~~(9)~~] If an election is held pursuant to other provisions of KRS Chapter 242 in the city or the county in which a limited sale precinct is located for the purpose of taking the sense of the voters upon the question of adopting or repealing prohibition for the entire city or the entire county, the status of ***that***[~~such~~] question in a limited sale precinct shall be determined in the following manner:

(a) The status of a limited sale precinct shall not be affected by any election for the entire city or the entire county if ***the***[~~such~~] limited sale precinct was established less than five (5) years prior to the date of the proposed election for the entire city or the entire county and in such case the voters of any limited sale precinct shall not vote in ***the***[~~such~~] election.

(b) If ***the***[~~such~~] limited sale precinct was established more than five (5) years prior to the date of the proposed election for the entire city or the entire county, the voters within each limited sale precinct shall be presented with the question, "Are you in favor of continuing the sale of alcoholic beverages in (official name and designation of precinct) as a limited sale precinct?" No other question shall be presented to the voters of any limited sale precinct.

(c) The votes of each limited sale precinct shall be counted separately, and, if a majority of the votes cast in the limited sale precinct are in favor of continuing the sale of alcoholic beverages therein as a limited sale precinct, then ***the***[~~such~~] status shall continue within ***the***[~~such~~] precinct, except that if the city or the county in which the limited sale precinct is located votes against prohibition in the remainder of the city or the county, the limited sale precinct status of any precinct may be terminated by the governing body of the city or the county and thereafter the status of such precinct shall be the same as that in effect for the remainder of the city or the county.

(11)[~~(10)~~] Any precinct located entirely within any city of the second class in which prohibition is in effect in all or part of the city shall be designated as a limited sale precinct by the governing body of the city; provided that:

(a) The governing body determines to its satisfaction that the general trade, business***,*** and economy of one (1) or more of the precincts within the city is substantially***,*** adversely affected by[~~ reason of~~] the legal sale of alcoholic beverages in any neighboring or adjoining state, county, city, town, district***,*** or precinct. For the purpose of making ***this***[~~such~~] determination, the governing body may hold[~~ such~~] hearings, examine[~~ such~~] witnesses***,*** or receive[~~ such~~] evidence as it believes necessary or desirable for ***the***[~~such~~] purpose; or

(b) The governing body receives a petition signed by a number of constitutionally qualified voters of a precinct equal to thirty-three percent (33%) of the votes cast in the precinct at the last preceding general election requesting the governing body of the city to designate such precinct as a limited sale precinct. The petition may consist of one (1) or more separate units and shall be filed with the mayor of the city. In addition to the name of the voter, the petition shall also state his post office address and the correct date upon which his name is signed. Upon receipt of the petition, the mayor shall cause the same to be presented to the governing body of the city at its next regularly scheduled meeting and, after verifying that such petition is in compliance with the requirements of this section, the governing body shall forthwith by ordinance designate the precinct to be a limited sale precinct.

SECTION 2. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any law to the contrary, a precinct located in a city of the third class where the entire city is wet territory, may have an election to take the sense of the voters of the precinct on the application of KRS 242.220 to 242.430 in the precinct. The election shall be held in the precinct in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120. The election shall not be deemed to be an election in the "same territory" within the meaning of subsection (5) of KRS 242.030; however, no election shall be held in the same precinct more often than once every five (5) years. The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?"

SB 65, AN ACT relating to dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.080 is amended to read as follows:

(1) ***Each person who is licensed to practice dentistry in Kentucky shall, by the thirty-first day of December of each odd-numbered year, register with the board and maintain satisfactory evidence of completion of continuing education as provided in this section. The registration shall be made on a form prescribed by the board and furnished by the board's executive director, and shall include the licensee's name, address, license number, and any other available information that the board may consider necessary. All registrations shall be in effect for the two (2) year period beginning on the first day of January of the following even-numbered year and ending on the last day of December of the following odd-numbered year.***

(2) By December 31 of each ***biennial licensing period as provided in subsection (1) of this section***[~~year~~], every dentist licensed to practice in this state shall return to the board evidence satisfactory to the board that ***the***[~~such~~] dentist has accumulated a sufficient number of points for continuing dental education in accordance with a schedule of points which shall be adopted by the board.[~~ Provided,~~] However, that the board, in its discretion, may make exceptions to the point requirement for continuing dental education for ***any***[~~such~~] hardship or other extenuating circumstances ***that***[~~as~~] the board deems appropriate. The continuing dental education shall include completion of the course described in KRS 214.610(1).

(3)[~~(2)~~] By December 31 of each ***biennial licensing period as provided in subsection (1) of this section***[~~year~~], every dentist licensed to practice in this state shall return to the board the renewal notice properly signed and a license fee in the amount prescribed by the board. The dentist shall thereupon receive a license renewal certificate, ***if the dentist***[~~provided that he~~] has also complied with the requirements of subsection ***(2)***[~~(1)~~] of this section. The board shall fix the license fee at ***an***[~~such~~] amount as is necessary to maintain a revolving fund at an approximate level of one hundred fifty thousand dollars ($150,000). The license fee for each ***licensing period***[~~year~~] shall be set by the board. Notice of[~~ a change in~~] the amount of license renewal fee shall be given to each dentist licensed in the state by the board not later than ***thirty (30) days before the end of the renewal period***[~~December 1~~].

(4) Any license granted by the board shall be ***automatically*** suspended if the holder fails to ***submit a properly completed renewal application to the board, with payment of the renewal fee, as required in this section. For purposes of this section, any renewal application shall be deemed timely submitted if it is delivered to the board office by December 31, or duly mailed and postmarked by that date. Any***[~~secure the renewal certificate by January 1 of each year, but any~~] license thus suspended may be restored by the board upon the payment to the board of ***the biennial registration fee, and in addition thereto,*** a reinstatement fee of fifty dollars ($50) within one (1) year after the suspension.

(5) Each dentist licensed under this chapter shall notify the board in writing of any change in the person's name, office address, or employment within ten (10) days after the change has taken place.

Section 2. KRS 313.150 is amended to read as follows:

(1) Proceedings to ***reprimand, place on probation, revoke, suspend, refuse to renew, or refuse to issue***[~~revoke or suspend~~] a license may be taken by the board from the matters within its knowledge or upon the information of another. If the informant is a member of the board, the other members shall constitute the board for the purpose of judging the accused. Every accusation shall be in writing, verified by some person familiar with the facts charged in it. Three (3) copies shall be filed with the secretary-treasurer of the board. Upon receiving the accusation the board shall, if it considers it sufficient, schedule an administrative hearing.

(2) All administrative hearings conducted under authority of this chapter shall be conducted in accordance with the provisions of KRS Chapter 13B.

(3) Any final order of the board may be appealed to the Circuit Court of the county in which the board met.

(4) The board's law enforcement committee may determine that immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that this action may be necessary, the executive director or the executive director's designee shall issue an emergency order. An emergency hearing shall be conducted in accordance with KRS Chapter 13B upon request of the licensee.

(a) No board member shall be disqualified from serving on a disciplinary action panel hearing or as a member of the board taking final disciplinary action upon a recommended order from a hearing panel for the reason that he or she has previously sat on a hearing panel considering temporary suspension of the same license.

(b) The board shall expedite disciplinary actions in which a license has been temporarily suspended.

(c) The order of immediate temporary suspension shall remain in effect until either retracted or superseded by final disciplinary action by the board. In cases where disciplinary action is imposed, the board may additionally order that the temporary suspension continue in effect until the later expiration of the time permitted for appeal or termination of the appellate process.

Section 3. KRS 313.305 is amended to read as follows:

(1) ***Each person who is licensed to practice dental hygiene in the Commonwealth shall, by the thirty-first day of December of each even-numbered year, register with the board and maintain satisfactory evidence of completion of continuing education as provided in this section. The registration shall be made on a form prescribed by the board and furnished by the board's executive director and shall include the licensee's name, address, license number, and any other available information that the board may consider necessary. All registrations shall be in effect for the two (2) year period beginning on the first day of January of the following odd-numbered year and ending on the last day of December of the following even-numbered year.***

(2) By December 31 of each ***biennial licensing period as provided in subsection (1) of this section***[~~year~~], every dental hygienist licensed to practice in this state shall return to the board evidence satisfactory to the board that the dental hygienist has accumulated a sufficient number of points for continuing dental hygienist education in accordance with a schedule of points which shall be adopted by the board. Continuing dental hygienist education shall include completion of the course described in KRS 214.610(1). In approving continuing education activities, the board shall develop criteria to determine the actual effect upon the competency of the participant.[~~ Provided,~~] However,[~~ that~~] the board, in its discretion, may make exceptions to the point requirement for continuing dental hygienist education for ***any***[~~such~~] hardship or other extenuating circumstances ***that***[~~as~~] the board deems appropriate.

(3)[~~(2)~~] By December 31 of each ***biennial licensing period as provided in subsection (1) of this section***[~~year~~], every dental hygienist licensed to practice in this state shall return to the board the hygienist's renewal notice properly signed and a fee[~~ of ten dollars ($10) or an amount as hereinafter~~] prescribed by the board ***by administrative regulation subject to the provisions of KRS Chapter 13A***. The dental hygienist shall then receive a license renewal certificate, ***if***[~~provided that~~] compliance with the requirements of subsection (1) of this section is met. The ***biennial***[~~annual~~] renewal license fee shall be established by the board in an amount as is necessary to maintain the level of the revolving fund in accordance with the provisions of KRS 313.080. The license fee for each ***licensing period***[~~year~~] shall be set ***biennially*** by the board. Notice of change in the amount of license renewal fee shall be given to each dental hygienist licensed in the state by the board not later than ***thirty (30) days prior to each renewal period***[~~December 1~~].

(4) Any license granted by the board shall be suspended if the holder fails to ***submit a properly completed renewal application to the board, with payment of a renewal fee, as required in this section. For purposes of this section, any renewal application shall be deemed timely submitted if it is delivered to the board office by December 31, or duly mailed and postmarked by that date.***[~~secure the renewal certificate by January 1 of each year, but~~] Any license thus suspended may be restored by the board upon the payment to the board of ***the biennial registration fee and, in addition thereto, of*** a reinstatement fee of twenty-five dollars ($25) within one (1) year after the suspension.

(5) Each dental hygienist licensed to practice under this chapter shall notify the board in writing of any change in the licensee's name, office address, or employment within ten (10) days after the change has taken place.

Section 4. KRS 313.020 is amended to read as follows:

No person, except those licensed and registered under prior laws of this state, shall practice or attempt to practice dentistry unless he has been licensed by the board and has registered his license as provided in ***Section 1 of this Act***[~~KRS 313.110~~].

Section 5. The following KRS sections are repealed:

313.110 Registration of license with county clerk -- Attestation -- Clerk's fee.

313.120 Forfeiture of license for failure to register it.

313.307 Registration of dental hygienists -- License in county -- Fee.

The House Committee Substitute to **SB 65** is as follows:

AN ACT relating to dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.080 is amended to read as follows:

(1) ***Each person who is licensed to practice dentistry in Kentucky shall, by the thirty-first day of December of each odd-numbered year, register with the board and maintain satisfactory evidence of completion of continuing education as provided in this section. The registration shall be made on a form prescribed by the board and furnished by the board's executive director, and shall include the licensee's name, address, license number, and any other available information that the board may consider necessary. All registrations shall be in effect for the two (2) year period beginning on the first day of January of the following even-numbered year and ending on the last day of December of the following odd-numbered year.***

(2) By December 31 of each ***biennial licensing period as provided in subsection (1) of this section***[~~year~~], every dentist licensed to practice in this state shall return to the board evidence satisfactory to the board that ***the***[~~such~~] dentist has accumulated a sufficient number of points for continuing dental education in accordance with a schedule of points which shall be adopted by the board.[~~ Provided,~~] However, that the board, in its discretion, may make exceptions to the point requirement for continuing dental education for ***any***[~~such~~] hardship or other extenuating circumstances ***that***[~~as~~] the board deems appropriate. The continuing dental education shall include completion of the course described in KRS 214.610(1).

(3)[~~(2)~~] By December 31 of each ***biennial licensing period as provided in subsection (1) of this section***[~~year~~], every dentist licensed to practice in this state shall return to the board the renewal notice properly signed and a license fee in the amount prescribed by the board. The dentist shall thereupon receive a license renewal certificate, ***if the dentist***[~~provided that he~~] has also complied with the requirements of subsection ***(2)***[~~(1)~~] of this section. The board shall fix the license fee at ***an***[~~such~~] amount as is necessary to maintain a revolving fund at an approximate level of one hundred fifty thousand dollars ($150,000). The license fee for each ***licensing period***[~~year~~] shall be set by the board. Notice of[~~ a change in~~] the amount of license renewal fee shall be given to each dentist licensed in the state by the board not later than ***thirty (30) days before the end of the renewal period***[~~December 1~~].

(4) Any license granted by the board shall be ***automatically*** suspended if the holder fails to ***submit a properly completed renewal application to the board, with payment of the renewal fee, as required in this section. For purposes of this section, any renewal application shall be deemed timely submitted if it is delivered to the board office by December 31, or duly mailed and postmarked by that date. Any***[~~secure the renewal certificate by January 1 of each year, but any~~] license thus suspended may be restored by the board upon the payment to the board of ***the biennial registration fee, and in addition thereto,*** a reinstatement fee of fifty dollars ($50) within one (1) year after the suspension.

(5) Each dentist licensed under this chapter shall notify the board in writing of any change in the person's name, office address, or employment within ten (10) days after the change has taken place.

Section 2. KRS 313.150 is amended to read as follows:

(1) Proceedings to ***reprimand, place on probation, revoke, suspend, refuse to renew, or refuse to issue***[~~revoke or suspend~~] a license may be taken by the board from the matters within its knowledge or upon the information of another. If the informant is a member of the board, the other members shall constitute the board for the purpose of judging the accused. Every accusation shall be in writing, verified by some person familiar with the facts charged in it. Three (3) copies shall be filed with the secretary-treasurer of the board. Upon receiving the accusation the board shall, if it considers it sufficient, schedule an administrative hearing.

(2) All administrative hearings conducted under authority of this chapter shall be conducted in accordance with the provisions of KRS Chapter 13B.

(3) Any final order of the board may be appealed to the Circuit Court of the county in which the board met.

Section 3. KRS 313.305 is amended to read as follows:

(1) ***Each person who is licensed to practice dental hygiene in the Commonwealth shall, by the thirty-first day of December of each even-numbered year, register with the board and maintain satisfactory evidence of completion of continuing education as provided in this section. The registration shall be made on a form prescribed by the board and furnished by the board's executive director and shall include the licensee's name, address, license number, and any other available information that the board may consider necessary. All registrations shall be in effect for the two (2) year period beginning on the first day of January of the following odd-numbered year and ending on the last day of December of the following even-numbered year.***

(2) By December 31 of each ***biennial licensing period as provided in subsection (1) of this section***[~~year~~], every dental hygienist licensed to practice in this state shall return to the board evidence satisfactory to the board that the dental hygienist has accumulated a sufficient number of points for continuing dental hygienist education in accordance with a schedule of points which shall be adopted by the board. Continuing dental hygienist education shall include completion of the course described in KRS 214.610(1). In approving continuing education activities, the board shall develop criteria to determine the actual effect upon the competency of the participant.[~~ Provided,~~] However,[~~ that~~] the board, in its discretion, may make exceptions to the point requirement for continuing dental hygienist education for ***any***[~~such~~] hardship or other extenuating circumstances ***that***[~~as~~] the board deems appropriate.

(3)[~~(2)~~] By December 31 of each ***biennial licensing period as provided in subsection (1) of this section***[~~year~~], every dental hygienist licensed to practice in this state shall return to the board the hygienist's renewal notice properly signed and a fee[~~ of ten dollars ($10) or an amount as hereinafter~~] prescribed by the board ***by administrative regulation subject to the provisions of KRS Chapter 13A***. The dental hygienist shall then receive a license renewal certificate, ***if***[~~provided that~~] compliance with the requirements of subsection (1) of this section is met. The ***biennial***[~~annual~~] renewal license fee shall be established by the board in an amount as is necessary to maintain the level of the revolving fund in accordance with the provisions of KRS 313.080. The license fee for each ***licensing period***[~~year~~] shall be set ***biennially*** by the board. Notice of change in the amount of license renewal fee shall be given to each dental hygienist licensed in the state by the board not later than ***thirty (30) days prior to each renewal period***[~~December 1~~].

(4) Any license granted by the board shall be suspended if the holder fails to ***submit a properly completed renewal application to the board, with payment of a renewal fee, as required in this section. For purposes of this section, any renewal application shall be deemed timely submitted if it is delivered to the board office by December 31, or duly mailed and postmarked by that date.***[~~secure the renewal certificate by January 1 of each year, but~~] Any license thus suspended may be restored by the board upon the payment to the board of ***the biennial registration fee and, in addition thereto, of*** a reinstatement fee of twenty-five dollars ($25) within one (1) year after the suspension.

(5) Each dental hygienist licensed to practice under this chapter shall notify the board in writing of any change in the licensee's name, office address, or employment within ten (10) days after the change has taken place.

Section 4. KRS 313.020 is amended to read as follows:

No person, except those licensed and registered under prior laws of this state, shall practice or attempt to practice dentistry unless he has been licensed by the board and has registered his license as provided in ***Section 1 of this Act***[~~KRS 313.110~~].

Section 5. The Legislative Research Commission shall direct that a study on the practice of denturity be conducted during the 1998-2000 interim. The study shall be for the purposes of determining: if and to what extent denturists should be regulated in the Commonwealth; if the Kentucky Board of Dentistry is the proper and most efficient entity to regulate those engaged in the practice of denturity; and whether registration similar to the ones established for dentists and dental hygienists in Sections 1 and 3 of this Act should be established for those practicing denturity.

Section 6. The following KRS sections are repealed:

313.110 Registration of license with county clerk -- Attestation -- Clerk's fee.
313.120 Forfeiture of license for failure to register it.
313.307 Registration of dental hygienists -- License in county -- Fee.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that **HB 450** be taken from Appropriations and Revenue and sent to the Floor. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 791**, **HB 854**, **HB 774**, **HB 776**, **HB 78**, **HB 136**, **HB 253**, **HB 462**, **HB 532**, **HB 628**, **HB 249**, **HB 588**, **HB 563**, **HB 677**, **HB 658**, **HB 377**, and **HB 324**. Agreed.

Representative Crimm moved that the rules be suspended to withdraw **HB 30**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording votes. Agreed. Representative Crall moved that his vote be changed from "nay" to "yea" on **HB 592**. Agreed. Representative Crall moved that his vote be changed from "yea" to "nay" on **HB 654**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Wilkey moved that his vote be changed from "nay" to "yea" on **HB 654**. Agreed.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Marcotte moved that he be recorded as voting "yea" on **HB 199**. Agreed.

Representative Stine moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Stine moved that her vote be changed from "yea" to "nay" on **HB 602**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Colter moved that her vote be changed from "yea" to "nay" on **HB 654**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Vincent moved that his vote be changed from "nay" to "yea" on **HCR 79**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Palumbo moved that she be recorded as voting "yea" on **HB 48**. Agreed.

Representative Hogancamp moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hogancamp moved that she be recorded as voting "nay" on **HB 654**. Agreed. Representative Hogancamp moved that her vote be changed from "yea" to "nay" on **HB 602**. Agreed.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Burch moved that he be recorded as voting "yea" on **HB 51**. Agreed.

Representative Stacy moved the adoption of the following **Legislative Citation No. 127**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Wardie Craft. The House of Representatives joins Representative John Will Stacy in expressing its deepest sympathy to all who share in the loss on the passing of this devoted husband of Hazel Craft, cherished brother of Rosetta Adems and Corda Perry, and adoring foster parent to 85 orphaned and displaced children. He was a retired teacher, minister and Morgan County preservationist, who, along with his beloved wife, established the Memory Hill Foundation in order to preserve the Memory Hill museum. The passion, dedication and social consciousness Wardie Craft brought to his community and to the Commonwealth of Kentucky will long be remembered by his family, friends and colleagues. Therefore, the entire membership extends its deepest sympathy and solace to the family of Wardie Craft and adjourns this day in memory of this outstanding Kentucky citizen whose memory will continue to be an inspiration to all whose lives were touched by his presence. **Legislative Citation No. 127** was adopted without objection.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 13**, Representative Damron; **HB 289**, **HB 716**, Representative Coleman; **HB 670**, Representative Worthington; **HB 552**, Representative P. Clark; **HB 605, HB 692**, Representative Yonts; **HB 627**, Representatives Gray, Haydon, Stein; **HB 692, HB 767, HB 843**, Representative Vincent; **HB 703, HB 728**, Representative Palumbo; **HB 709**, Representative Rader; **HB 713**, Representative G. Graham; **HB 748**, Representative Wayne; **HB 761**, Representative Siler; **HB 765**, Representative Gooch; **HB 804, HB 913**, Representative L. Clark; **HB 804**, Representatives Horlander, Jordan; **HB 864**, Representative Clarke; **HB 869**, Representative Alexander; **HB 913**, Representatives Jenkins, Johns.

The following member filed a request to have his name withdrawn as co-sponsor of a Bill under rules previously suspended: **HB 293**, Representative Worthington.

Announcements

The following meetings were announced: Labor and Industry, 15 minutes upon adjournment, March 4, 1998, and 9:00 a.m. March 5, 1998, Room 125. Appropriations and Revenue, upon adjournment, Room 129. Banking and Insurance, 8:30 a.m., March 5, 1998. Budget Review Subcommittee on General Government, March 5, 1998, 10:00 a.m. Budget Review Subcommittee on Tourism, Noon, March 5, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 5, 1998.

On the roll call the vote was **Yeas 69**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, Ballard, Baugh, Brandstetter, Bruce, D. Butler, D. D. Butler, Callahan, L. Clark, J. Clarke, Collins, Colter, Cox, Crimm, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Ratliff, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stine, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Yonts, Zimmerman. **Nays 9**--Bratcher, Cave, P. Clark, Crall, Maricle, Nesler, Nunn, Stewart, Walton.

The motion to adjourn was adopted.

THURSDAY, MARCH 5, 1998

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Trooper Phil Yates, Chaplain, Kentucky State Police.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present Representatives Hatcher, Horlander, Lovell, and Miniard.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 4, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 83, SB 119, SB 261, SB 265, SB 288, SB 320, SB 327, SB 328, HB 38, HB 75, HB 104, HB 154, HB 156, HB 175, HB 284, HB 340, HB 343, HB 347, HB 348, HB 356, HB 357, HB 360, HB 365, HB 412**, and **HB 422**. Message received on **HB 31**: The Senate has passed **HB 31** with Senate Committee No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 92**: The Senate has passed **HB 92** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 187**: The Senate has passed **HB 187** with Senate Committee Amendment No. 1, Senate Floor Amendment No. 2, and Senate Floor Amendment No. 3 Title and respectfully requests concurrence of this Honorable Body. Message received on **HB 234**: The Senate has passed **HB 234** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Stumbo moved the adoption of the following **Legislative Citation No. 132**. Agreed.

WHEREAS: Since being established by actions of the General Assembly and Governor Earle C. Clements on March 5, 1948, the Kentucky State Police have maintained the highest standards of excellence and evolved into the Commonwealth's premiere law enforcement institution; and,

WHEREAS: In the 50 years since the organization's founding, the dedication, goodwill, and professionalism of Kentucky State Police troopers, officers, and employees have promoted and ensured peace and stability within the Commonwealth's borders; and,

WHEREAS: The Kentucky State Police have earned the affection and respect of all Kentuckians through the diligent and conscientious performance of their sworn missions; and,

WHEREAS: The reassuring presence of the State Police greatly augments the safety, dignity, and piece of mind enjoyed by Kentucky residents and visitors in their travels, property, and persons; and,

WHEREAS: The State Police have become one of the Commonwealth's principle advocates and educators on matters relating to traffic safety and crime and drug abuse prevention; and,

WHEREAS: State Police researchers and investigators continue to demonstrate the highest degree of professional ability and technical acumen in the exercise of their investigative responsibilities and in their understanding of the forensic sciences; and,

WHEREAS: Since 1948, twenty-three fine and honorable members of the Kentucky State Police have paid the ultimate price in defense of the rights and liberties of the citizens of the Commonwealth; just as all State Police troopers, administrators, and staffers have placed their lives on the line and sacrificed of their personal time, safety, and talents to uphold the laws and values of Kentucky; and,

WHEREAS: The Kentucky State Police remain the Commonwealth's one, true "Thin Gray Line":

The Kentucky House of Representatives, along with House Speaker Jody Richards, hereby pays tribute and extends its sincere gratitude to the Kentucky State Police for 50 years of outstanding and meritorious service. The professionalism, courtesy, and excellence historically and presently demonstrated by the members of the Kentucky State Police in performance of their momentous duties are truly worthy of the highest praise and regard the people of Kentucky can bestow. The appreciation, recognition, and admiration of the House of Representatives and the citizens of the Commonwealth go out to the State Police as the organization embarks upon its next 50 years of duty, honor, and citizenship.

Legislative Citation No. 132 was adopted without objection.

Representative Stumbo moved that the rules be suspended to allow Commissioner Rose to address the Body. Agreed. Commissioner Rose briefly addressed the Body as follows:

Thank you Speaker Richards and members of the General Assembly for taking the time out of your busy schedules to recognize the Kentucky State Police in its 50th year of service to the citizens of this Commonwealth and to bestow this honor upon our agency.

On July 1, 1948, Governor Earle Clements and the Kentucky General Assembly created the Kentucky State Police. This agency was charged with the mission of protecting life and property, investigating crime and arresting criminals, along with enforcing Kentucky's traffic laws in order to reduce accidents on our roadways.

To this end, I am very proud to proclaim to you that the dedicated men and women of the Kentucky State Police have been very successful in completing their mission. I also want to report to you that mechanisms are in place that will ensure a successful continuation of our mission.

Again, on behalf of all our employees, I want to thank you for this Resolution and assure you that we will continue to uphold the same professional standards, integrity, and proud tradition that have made the Kentucky State Police one of the premier law enforcement agencies in this country. Thank you.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 904, HB 917**

Appropriations and Revenue: **HB 869, HB 879, HB 915**

Banking and Insurance: **HB 873, HB 905, HB 899**

Counties and Special Districts: **HB 871, HB 889**

Economic Development: **HB 911, HCR 124**

Education: **HB 870, HB 882, HB 888, HB 894, HB 897, HB 900, HB 901, HB 902, HB 907, HB 908, HB 912, HB 920, SB 11, SB 257, SB 295**

Health and Welfare: **HB 883, HB 919, HB 922, HB 924, HCR 123, HCR 126**

Judiciary: **HB 866, HB 867, HB 868, HB 872, HB 880, HB 884, HB 885, HB 891, HB 895, HB 896, HB 903, HB 909, HB 918, HB 921, SB 205**

Licensing and Occupations: **HB 878, HB 881, HB 890, HB 893**

Natural Resource and Environment: **HB 877, HJR 121**

State Government: **HB 875, HB 876, HB 887, HB 913, HB 916, HCR 125, SB 248, SCR 95**

Tourism Development and Energy: **HB 906, HB 914, HR 122**

Transportation: **HB 865, HB 874, HB 886, HB 892, HB 898, HB 910, HB 923, HJR 118, HCR 119, HJR 120.**

Report of Committees

The Committee on Labor and Industry reported **HB 742** and **SB 136** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 742, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.803 is amended to read as follows:

(1) The Kentucky Employers' Mutual Insurance Authority is created as a nonprofit, independent, self-supporting de jure

municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to insure employers in the Commonwealth for workers' compensation, employers' liability insurance and coverage required by the Federal Coal Mine Health & Safety Act, the Jones Act, and the Longshore and Harbor Workers Act incidental to and written in conjunction with workers' compensation. ***The General Assembly hereby recognizes that the operation of a competitive state fund is a unique activity for state government and that a corporate structure will best enable the authority to be managed in an entrepreneurial and business-like manner.*** The authority shall function in a manner similar to a governing board for a domestic mutual insurance company and shall be subject to the provisions of KRS Chapter 304 applicable to domestic mutual insurance companies, unless otherwise provided or exempted in KRS 342.801 to 342.843.

(2) Except for initial funding for start-up, the authority shall be entirely self-supporting.

(3) The authority or its liabilities shall not be deemed to constitute a debt or a liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(4) The authority shall provide coverage and issue policies as an insurer in the voluntary market and as an insurer of last resort.

Section 2. KRS 342.807 is amended to read as follows:

(1) The authority shall be governed by a board of directors. The board shall exercise complete jurisdiction over the authority.

(2) The board shall consist of ***the:***

(a) Secretary of the Finance and Administration Cabinet;

(b) Commissioner of the Department of Personnel;

(c) Secretary of the Public Protection and Regulation Cabinet; and

(d) Seven (7) ***at-large***[~~voting~~] members[~~ and four (4) ex officio nonvoting members who shall serve in an advisory capacity.~~

~~(3) On or before sixty (60) days after April 4, 1994, the board shall be~~] appointed by the Governor, subject to confirmation by the Senate.[~~ The members of the board shall have the following qualifications:~~

~~(a) One (1) member shall have proven or demonstrated knowledge and experience in insurance underwriting principles, preferably in the area of workers' compensation;~~

~~(b) One (1) member shall have proven or demonstrated knowledge and experience in workplace safety in the majority of all categories or classifications of employment and industry in the Commonwealth;~~

~~(c) One (1) member shall be a nonmanagement employee of a prospective employer policyholder;~~

~~(d) Two (2) members shall represent employers with fewer than fifty (50) employees; and~~

~~(e) Two (2) members shall represent employers with more than fifty (50) employees.~~]

(3)[~~(4)~~] Any vacancy which occurs prior to the expiration of a term shall be filled by the Governor in the same manner as the initial appointment was made, and the new appointee shall serve only the remainder of the unexpired term.

(4)[~~(5)~~] No person shall serve on the board who:

(a) Fails to meet or comply with the conflict of interest policies established by the board and KRS 304.24-270;

(b) Is not bondable;

(c) Is an employee, attorney, or contractor of a competing insurer providing workers' compensation insurance in the Commonwealth; or

(d) Is not a resident of this Commonwealth.

(5)[~~(6)~~] In making the appointments to the board, subject to Senate confirmation, the Governor shall ensure adequate representation from the major sectors of the economy and workforce in the Commonwealth.

Section 3. KRS 342.809 is amended to read as follows:

(1) The board shall elect a chair and other officers it deems necessary from its members. The Governor shall make the initial appointments to the board as follows: three (3) members shall be appointed to terms that expire December 31, 1995, and four (4) members shall be appointed to terms that expire December 31, 1997. Subsequent members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.

(2) Senate confirmation of the Governor's appointees is required in accordance with the provisions of KRS 11.160. If a member is not confirmed by the Senate, the Governor, within thirty (30) days of the rejection, shall make another appointment. That member shall serve the remainder of the term in question and shall also be subject to confirmation should the term extend until the next regular session, or a special session which includes this subject on the call, whichever occurs earlier.

(3) ***Six (6)***[~~Four (4) voting~~] members shall constitute a quorum. The board shall meet at least ***monthly***[~~quarterly~~].

(4) Each[~~ voting~~] member***, except the secretaries of the cabinets and the commissioner of personnel,*** shall be compensated five thousand dollars ($5,000) annually, except the chair, who shall be paid seven thousand five hundred dollars ($7,500). In addition, the[~~ voting~~] members of the board***, except the secretaries of the cabinets and the commissioner of personnel,*** shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated by the Cabinet for Finance and Administration for state employees.

(5)[~~ The ex officio nonvoting members of the board shall be: the secretary of the Finance and Administration Cabinet, the commissioner of the Department of Personnel, and the commissioner of the Department of Insurance.~~

~~(6)~~] A[~~ voting~~] board member***, except the secretaries of the cabinets and the commissioner of personnel,*** may be removed for cause by the board. Cause shall include, but not be limited to, incompetence or misconduct defined in policies or bylaws ***adopted***[~~formulated~~] by the board[~~ and adopted by the policyholders~~].

Section 4. KRS 342.811 is amended to read as follows:

The board of directors of the authority shall function in a manner similar to the governing body of a mutual insurance company established pursuant to KRS Chapter 304, with all of the general corporate powers incidental thereto. The powers and duties of the board shall include, but not be limited to, the power to:

(1) Sue[~~ or be sued~~];

(2) Hire a manager to administer the authority ***in accordance with the policies and procedures of the board;***

(3) Hire an internal auditor who shall serve at the pleasure of and report directly to the board on the internal operations of the authority;

(4)[~~(3)~~] Adopt a corporate seal;

(5)[~~(4)~~] Develop ***and file with the Legislative Research Commission*** bylaws for the operation of the authority;

(6)[~~(5)~~] Develop bylaws to establish the contingent liability of the policyholders for assessment purposes required in KRS 342.823;

(7)[~~(6)~~] Examine and adopt an annual operating budget for the authority;

(8)[~~(7)~~] Serve as investment trustees and fiduciaries of the authority in accordance with the provisions of KRS Chapter 386;

(9)[~~(8)~~] Incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank, excluding the authority to issue bonds;

(10)[~~(9)~~] Develop[~~ broad~~] policy for the[~~ long-term~~] operation of the authority consistent with its mission and fiduciary responsibility;

(11)[~~(10)~~] Adopt a procurement policy consistent with the provisions of KRS Chapter 45A***, including competitive bidding procedures***;

(12)[~~(11)~~] Develop and publish an annual report to policyholders, the Governor, the General Assembly, and interested parties that describes the financial condition of the authority, including a statement of expenses, income, and actuarial soundness;

(13)[~~(12)~~] Pursuant to KRS Chapter 304, determine and establish an actuarially-sound price for insurance offered by the authority, including any dividends or deviations;

(14)[~~(13)~~] Pursuant to KRS 342.823, assess policyholders;[~~ and~~]

(15)[~~(14)~~] ***Employ a qualified firm to conduct an internal review and management or performance audit of the internal operations of the authority as needed or determined by the board, Attorney General, or Auditor of Public Accounts;***

(16) Approve a personnel policy subject to the provisions of Section 5 of this Act;

(17) Approve all contracts entered into by the authority, in accordance with the bylaws and procurement policy of the board;

(18) Conduct annually an independent audit of the financial condition of the authority; and

(19) Perform all other acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the authority, either in the administration or in connection with the business of the authority to fulfill the purpose of KRS 342.801 to 342.843.

Section 5. KRS 342.813 is amended to read as follows:

(1) Following a nationwide search, the board shall hire a manager, subject to Senate confirmation in accordance with KRS 11.160 who shall serve at the pleasure of the board. The manager shall be compensated at a level determined by the board[~~, and may be removed by the board in the same manner prescribed in KRS 342.809 for the removal of a member of the board~~].

(2) The manager shall have proven successful experience for a period of at least five (5) years as an executive at the general

management level in insurance operations or in the management of a state fund for workers' compensation.

(3) The manager shall conduct the day-to-day operations of the authority for the purpose of carrying out the policies and procedures of the board. The~~[specific]~~ duties of the manager~~[shall]~~ include, but ***are*** not~~[be]~~ limited to:

(a) Administering all operations of the authority in accordance with the direction of the board;

(b) Recommending to the board an annual administrative budget covering the operations of the authority and, upon approval, submitting the administrative budget, financial status, and actuarial condition of the authority to the Governor and the General Assembly for their examination;

(c) Directing and controlling all expenditures of the approved budget;

(d) From time to time, upon the recommendation of an actuary, recommending to the board actuarially-sound rating plans, and the amount of dividends, if any, to be returned to policyholders;

(e) Investing the assets of the authority under the guidance of the board and in accordance with the provisions of Subtitle 7 of KRS Chapter 304;

(f) ***Recommending to the board and administering***~~[Formulating and administering]~~ a system of personnel administration~~[and employee compensation that uses merit principles of personnel management, includes employee benefits and grievance procedures, and includes in-service training programs]~~;

(g) Preparing and administering fiscal, payroll, accounting, data processing, and procurement procedures for the operation of the authority;

(h) Recommending to the board bylaws and uniform procedures for the management of the authority;

(i) Within the limitations of the budget, employing necessary staff personnel ***in accordance with the personnel policies of the board***;

(j) Maintaining appropriate levels of property, casualty, and liability insurance as approved by the board to protect directors, officers, employees, and assets of the authority; and

(k) Contracting~~[by competitive bidding]~~ ***in accordance with Section 4 of this Act***~~[pursuant to KRS Chapter 45A]~~ for claims administration, safety services, legal defense, actuaries, medical providers, financial services, and other services which the manager elects to obtain outside employed staff.

(4) The manager may:

(a) Reinsure any risk or part of any risk;

(b) Cause to be inspected and audited the payrolls of policyholders or employers applying to the authority for insurance;

(c) Establish procedures for adjusting claims in accordance with this chapter; ***and***

(d)~~[Contract with physicians, surgeons, hospitals, and other health care providers for medical and surgical treatment provided by this chapter;~~

~~(e) Contract with qualified third-party entities to assist in the development and formulation of rates and rating plans; and~~

~~(f)]~~ Require policyholders to maintain an adequate deposit to provide security for periods of coverage for which premiums have not been paid.

(5) The manager shall give an official bond in an amount and with sureties approved by the board. The premium for the bond shall be paid by the authority.

(6) The provisions of KRS Chapters 18A and 64~~[relating to salaries, salary limits, or benefits]~~ shall not apply to the board, the manager, or the staff of the authority***; however, the board shall adopt a system of personnel administration that includes benefits, grievance procedures, training and compensation***.

Section 6. KRS 342.823 is amended to read as follows:

(1) In determining the solvency of the authority in regard to maintaining adequate reserves, the commissioner of insurance, the independent accountant engaged for the annual audit, and the board, in exercising its prudent stewardship, shall not utilize the practice of "discounting" the funds to reduce future liabilities, except in conformity with standards or rules promulgated by the National Association of Insurance Commissioners.

(2) The ***authority***~~[board]~~ shall ***file reports required by KRS 304.3-240***~~[submit an annual independently audited financial statement in accordance with procedures governing annual statements adopted by the National Association of Insurance Commissioners within ninety (90) days of the close of the business year]~~.

(3) The authority shall file a report not later than March 31 of each year indicating~~[The statement shall be a public record and shall be delivered to the Governor, commissioner of insurance, and the co-chairs of the Legislative Research Commission. It shall indicate]~~ the business done by the authority during the previous year, including a balance sheet showing assets and liabilities at the beginning and conclusion of that year. ***The report shall be a public record and shall***

be delivered to the Governor, commissioner of insurance, Auditor of Public Accounts, Attorney General, and the co-chairs of the Legislative Research Commission. Additionally, a statement of solvency shall be prepared which shall include, at a minimum:

(a) A summary of the prior quarterly reports required in KRS 342.821;

(b) ***A management***[~~An actuarial~~] projection of ***the future*** solvency status for ***the authority***[~~at least ten (10) years in the future~~]; and

(c) Any recommendations pertaining to the same.

(4)[~~(3)~~] ***The authority shall not enter into any contract with a certified public accountant for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request for an audit. Any contract with a certified public accountant entered into as a result of the Auditor of Public Accounts declining to perform the audit shall specify the following:***

(a) That the certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts, Attorney General, and Legislative Research Commission; and

(b) That the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers.

(5) If at any time the assets of the authority are less than its liabilities, the board may levy an assessment on its policyholders[~~. The board may enforce payment of the assessment~~] in the manner provided in Subtitle 24 of KRS Chapter 304.

Section 7. KRS 342.841 is amended to read as follows:

(1) The board shall comply with KRS Chapter 61 in regard to open meetings and ***open records in*** the conduct of ordinary business***. In addition to the exemptions listed in KRS Chapter 61, proceedings to discuss rates, proposed rates, or anything that relates to rates if that discussion would jeopardize the competitiveness of the authority may be closed, as well as***,[~~ except that~~] proceedings which would provide an unfair competitive advantage to private sector competitors providing workers' compensation coverage in the Commonwealth[~~ may be closed to the public. The authority shall act as any other domestic mutual insurance company with regard to all of its records. Any request for records shall be in writing. Any records requested shall be in pursuit of the investigation, and the confidentiality of the information in the records shall be maintained~~].

(2) All records of the authority shall be deemed open records and subject to public inspection, unless:

(a) The record is excluded from inspection under KRS Chapter 61;

(b) The record includes information that would provide an unfair competitive advantage to private sector competitors providing workers' compensation coverage in the Commonwealth;

(c) In addition to the exemption provided by KRS 61.878(1)(c)1., the record is generated by the authority, generally recognized as confidential or proprietary, and which if openly disclosed would permit an unfair commercial advantage to competitors of the authority or other entity to which the record relates; and

(d) The record relates to a fraud investigation conducted by the authority and that does not become evidence in a criminal or civil action.

Section 8. KRS 342.843 is amended to read as follows:

(1) The Attorney General and the Auditor of Public Accounts shall[~~ continuously~~] monitor the operations of the authority.

(2) Either the Attorney General or the Auditor of Public Accounts, or both, may make ***at any time*** any ***examinations or*** investigations, jointly or severally, of the operations, practices, management, or other matters relating to the authority as they deem necessary. ***Either of them shall have the power to subpoena witnesses and records for these purposes, and otherwise to compel the giving of evidence for any matter under study. The Attorney General, the Auditor of Public Accounts, or any employee authorized by either of them may require the giving of this evidence under oath and may administer the oath. Any person voluntarily providing information or evidence may be required to do so under oath administered by the Attorney General, the Auditor of Public Accounts, or any employee authorized by either of them. If any person fails or refuses to testify or furnish documentary evidence concerning any matter requested, the Franklin Circuit Court, on application of either the Attorney General or the Auditor of Public Accounts or both, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or of a refusal to testify in the Circuit Court.***

(3) The Attorney General and the Auditor of Public Accounts shall have ***without restriction***:

(a) Full access to all records of the authority***, except that confidential medical records of employees of insureds are available only by subpoena***;

(b) Full access to all financial transactions and investigations of the authority; ***and***

(c) ***The right to attend all meetings of the board and its committees***[~~The right of subpoena; and~~

~~(d) Full access to claims, records, and supporting data~~].

(4) If fraud, mismanagement, illegal activity, imprudent practices, or other deficiencies are found in the operations or other practices of the authority, the Attorney General or Auditor of Public Accounts, or both shall:

(a) Recommend internal corrective action;

(b) Institute a civil action or action for injunctive relief to compel corrective action;

(c) Institute criminal proceedings against any officer or employee of the authority or any other person, as defined in KRS 446.010, as may be necessary; or

(d) Any combination of the above listed actions or any other form of action reasonably calculated to assure efficient and honest operations of the authority and those involved with it.

(5) The Attorney General and the Auditor of Public Accounts shall report jointly to the General Assembly in January of each year in which the General Assembly convenes in regular session the results of the monitoring activities required by this section.

Section 9. If the reorganization of the Department of Personnel into the Personnel Cabinet is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Commissioner of the Department of Personnel appearing in subsection (2)(b) of Section 1 of this Act shall be codified as the Secretary of the Personnel Cabinet.

Section 10. If the reorganization of the Department of Personnel into the Personnel Cabinet is confirmed by this 1998 Regular Session of the General Assembly, the reference to "and the commissioner of personnel" appearing in subsections (4) and (6) of Section 3 of this Act shall be deleted.

SB 136, AN ACT relating to the propane industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

It is declared to be in the interest of the public welfare that persons involved in the production, transportation, and sale of propane and the manufacture and distribution of propane utilization equipment shall be permitted and encouraged to act jointly and in cooperation to develop programs to enhance consumer and employee safety, to provide research and development, and to inform and educate the public about safety and other issues associated with the use of propane.

SECTION 2. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17 of this Act, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;

(2) "Council" means the Kentucky Propane Education and Research Council created in accordance with Section 11 of this Act;

(3) "Department" means the state Department of Housing, Buildings and Construction;

(4) "Education" means any action to provide information regarding propane, propane equipment, mechanical and technical practices relating to the use of propane, and propane uses to consumers and members of the propane industry;

(5) "Industry" means those persons involved in the production, transportation, and sale of propane and in the manufacture and distribution of propane utilization equipment;

(6) "Industry trade association" means an organization representing the propane industry which is exempt from tax, under Section 501(c)(3) or (c)(6) of the Internal Revenue Code;

(7) "Odorized propane" means propane to which an odorant has been added;

(8) "Person" means any individual, corporation, partnership, association, cooperative, or other business entity;

(9) "Producer" means the owner of propane at the time it is recovered at a gas processing plant or refinery, without regard to the state in which actual production occurs;

(10) "Propane" means a hydrocarbon whose chemical composition is predominately C3H8, whether recovered from natural gas or crude oil, and includes liquefied petroleum gases and mixtures thereof;

(11) "Public member" means a member of the council representing significant users of propane, public safety officials, state regulatory officials, or other groups knowledgeable about propane;

(12) "Research" means any type of study, investigation, or other activity designed to advance the image, desirability, usage, marketability, efficiency, or safety of propane and to further the development of this information;

(13) "Retail marketer" means a person engaged primarily in the sale of odorized propane to the final user of the product

or to retail propane dispensers;

(14) "Retail propane dispenser" means a person who sells odorized propane to the final user of the product but is not engaged primarily in the business of these sales; and

(15) "Supplier" means a person, other than a producer, who is the owner of propane in the Commonwealth at the time of odorization or who is the owner of odorized propane at the time it is imported into the Commonwealth.

SECTION 3. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of Sections 1 to 17 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

No association meeting or activity undertaken to carry out the provision of Sections 1 to 17 of this Act and intended to benefit all persons involved in the production, transportation, and sale of propane and the manufacture and distribution of propane utilization equipment shall be deemed or considered illegal or in restraint of trade.

SECTION 5. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

Producers, suppliers, and retail marketers of propane shall be permitted by referendum, subject to the provisions of Sections 1 to 17 of this Act, to levy upon themselves an assessment on odorized propane and provide for the collection of the assessment for the purpose of financing or contributing toward the financing of a program of research, market, development, and education to increase the consumption, use, sale, and markets for propane and toward the financing of programs to enhance consumer and employee education and safety.

SECTION 6. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

(1) Any existing industry trade organization which is fairly representative of the propane industry in Kentucky, such as the Kentucky Propane Gas Association, may at any time after the effective date of this Act, make application to the commissioner on forms prescribed by the department for certification and approval for the purpose of conducting a referendum among producers, suppliers, and retail marketers upon the question of levying an assessment under the provisions of Sections 1 to 17 of this Act and collecting and utilizing the assessment for the purpose stated in the referendum. The application forms shall include, but not be limited to, the following:

(a) Applicant's name;
(b) Applicant's address;
(c) Date;
(d) Program to be undertaken;
(e) Brief statement of how the program is to be implemented;
(f) Referendum to be conducted on a statewide basis;
(g) Proposed effective date of the program; and
(h) Signature of the applicant.

(2) Upon receipt of the application, the commissioner shall publish the application through the medium of the public press in the state within ten (10) days of receipt.

SECTION 7. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

Upon being certified by the commissioner, the association in subsection (1) of Section 6 of this Act shall be fully authorized and empowered to hold a referendum among producers, suppliers, and retail marketers on the question of whether the industry shall levy upon itself an assessment for the purpose stated in Sections 1 to 17 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

Any referendum conducted under the provisions of Sections 1 to 17 of this Act shall be held on a statewide basis. Voting rights in the referendum shall be based on the volume of propane produced or odorized propane sold in the Commonwealth in the previous calendar year and shall be proportional to the gallons sold. In the referendum, persons eligible for participation shall vote upon the question of whether there shall be levied an annual assessment in the amount set forth in the call for the referendum.

SECTION 9. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

(1) The manner, conduct, and management of any referendum held under the provisions of Sections 1 to 17 of this Act shall be under the supervision and direction of the commissioner. Any and all expenses in connection with the initial referendum shall be borne by the association conducting the referendum. Any and all expenses in connection with subsequent referenda shall be borne by the council.

(2) With respect to any referendum conducted under the provisions of Sections 1 to 17 of this Act, the association or council responsible for the referendum shall select an independent auditing firm, subject to the approval of the

commissioner, to conduct the referendum.

(3) All persons voting in the referendum shall certify to the independent auditing firm the volume of propane represented by their vote. The information provided under this subsection shall be considered proprietary and shall remain confidential.

(4) The association or council responsible for the referendum shall develop a mechanism for notifying those persons eligible to vote in the referendum. Notice of the referendum, at a minimum, shall be given to all retail marketers in Kentucky holding a "Class A" license from the department and notice shall be published in existing industry publications with significant circulation within the Commonwealth.

SECTION 10. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

(1) The results of the referendum, as certified by the independent auditing firm, shall be submitted to the commissioner within thirty (30) days of certification.

(2) For the purpose of the referendum, producers and suppliers shall be considered a single class. Upon approval of those persons representing two-thirds (2/3) of the total volume of odorized propane voted in the retail marketer class and approval of those persons representing two-thirds (2/3) of the total volume of propane voted in the producer and supplier class, the commissioner shall issue an order authorizing the assessment.

(3) The initial assessment proposed shall be no greater than one-tenth of one cent ($0.001) per gallon of odorized propane. Thereafter, the annual assessment shall be set by the council in an amount adequate to cover the cost of plans and programs developed by the council. In no event shall the annual assessment levied under the provisions of the referendum exceed one-half of one cent ($0.005) per gallon of odorized propane unless approved by the majority of those voting in both the retail marketer class and the producer and supplier class in a separate referendum. The increase in the annual assessment as provided for in this subsection is limited to one-tenth of one cent ($0.001) per year.

SECTION 11. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Kentucky Propane Education and Research Council composed of eleven (11) members appointed by the commissioner. Five (5) members shall represent retail marketers, five (5) members shall represent producers and suppliers, and one (1) member shall be the public member as defined in Section 2 of this Act.

(2) Council members representing retail marketers, producers, and suppliers shall be appointed based on the nomination of an industry trade association certified according to Section 6 of this Act. No member representing these categories may be appointed unless recommended by a certified industry trade association. Members in these categories shall be full-time employees or owners of businesses in the industry.

(3) No employee of a certified industry trade association shall serve as a member of the council and no member of the council may serve concurrently as an officer or member of the board of directors of a certified industry trade association. A director of a certified association may serve as an ex officio nonvoting member of the council.

(4) No more than one (1) representative from any company or its affiliate may serve on the council at any time.

(5) In nominating members to the council, a certified association shall consider broad-based representation including:

(a) Gas processors and oil refiners among producers;

(b) Interstate and intrastate operators among retail marketers;

(c) Large and small companies among producers, suppliers, and retail marketers; and

(d) Diverse geographic regions of the state.

(6) Council members shall serve three (3) year terms except that for initial appointments, four (4) members shall be appointed to one (1) year terms, four (4) members to two (2) year terms, and three (3) members to three (3) year terms. Within ninety (90) days after the effective date of this Act, certified industry trade organizations shall submit nominations to the commissioner. No member shall serve more than two (2) consecutive terms.

(7) Council members shall receive no compensation for their services. Only the public member may be reimbursed for reasonable and necessary expenses directly related to attendance at council meetings.

SECTION 12. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

(1) The council shall establish the annual assessment subject to the limitations of subsection (3) of Section 10 of this Act to be paid by the owner of odorized propane at the time of odorization or at the time of import of odorized propane into the state. The assessment shall be made based on the volume of odorized propane sold for final use within the Commonwealth.

(2) The assessment shall be listed as a separate line item on the bill and labeled "Kentucky Propane Education and Research Assessment." Assessments collected from purchasers of propane are payable to the council on a monthly

basis and are due by the twenty-fifth day of the month following the month of collection.

(3) The council may establish an alternative means of collecting the assessment if another method is found to be more efficient or effective. The council may establish a late payment charge and rate of interest to be imposed on any person who fails to remit to the council any amount due by the date listed in subsection (2) of this section.

(4) The council shall elect its own chair and may elect other officers as necessary. The council shall determine its business structure and adopt rules and bylaws for the conduct of its business. The council shall establish procedures for the solicitation of industry comments and recommendations on plans and programs financed by the assessments.

(5) The council shall keep minutes, books, and records that clearly reflect all of the acts and transactions of the council. The minutes, books, and records shall be made available to the members of the council, the commissioner, and persons paying the assessment.

(6) The council shall, at the beginning of each fiscal year, prepare and submit to the commissioner a budget. The commissioner shall review and comment on the proposed budget.

(7) The books of the council shall be audited by a certified public accountant at least once each fiscal year. Copies of the audit shall be provided to the members of the council and the commissioner.

(8) The council may contract with an industry association certified under Section 6 of this Act for administrative and other services subject to the limitation in subsection (2) of Section 13 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

The funds, including donations from individuals, associations, concerns, corporations, and grants from state or federal governmental agencies, shall be used for the purpose of promoting and stimulating, by research, market development, and education, the increased use and sale of propane and increased consumer and employee safety. None of these funds shall be used to lobby as defined in KRS 6.611. The council shall use and disburse the funds as follows:

(1) The council may refund to the industry association certified under Section 6 of this Act the costs and expenses incurred in the conduct of the initial referendum. The council shall bear the cost of any subsequent referenda provided for in Sections 1 to 17 of this Act;

(2) The council may spend or disburse the necessary funds for administrative costs and expenses, but no more than fifteen percent (15%) of the funds collected in any year shall be utilized in this manner; and

(3) The balance remaining shall be used for the purposes provided in Sections 1 to 17 of this Act, as determined by the council.

SECTION 14. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

If the referendum is carried in the affirmative and the assessment is levied and collected as provided, any person upon and against whom the assessment shall have been levied and collected under the provisions of Sections 1 to 17 of this Act, if dissatisfied with the assessment and the result thereof, may demand of and shall receive from the council a refund of the assessment collected, if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected. Each refund request shall be accompanied by written proof of the assessment charged.

SECTION 15. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

(1) Upon petition to the commissioner by producers, suppliers, and retail marketers representing thirty-five percent (35%) of the volume of propane in each class, the council shall conduct a referendum to determine if the industry favors termination of the council and the assessment. Termination shall not take effect unless it is approved by persons representing a majority of the total volume of odorized propane voted in the retail marketer class and by persons representing a majority of the total volume of propane voted in the producer and supplier class.

(2) The council shall conduct a referendum five (5) years after the date of the first referendum and each subsequent five (5) year period to determine if the assessment should be continued or terminated.

(3) If the council expresses in writing its desire to the commissioner to discontinue the assessment program and terminate the program, the commissioner, after reviewing the request and conducting whatever proceedings are deemed appropriate and necessary in connection with the request, may terminate the program effective at the end of the calendar year in which the action is taken.

SECTION 16. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

In all cases, the price of propane shall be determined by market forces. Consistent with the antitrust laws, the council may take no action and no provision of Sections 1 to 17 of this Act may be interpreted as establishing an agreement to pass along to consumers the cost of the assessments provided for in Sections 1 to 17 of this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 234 IS CREATED TO READ AS FOLLOWS:

When in the judgment of the council or an association certified under Section 6 of this Act, a person has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of Sections 1 to 17 of this Act, the

council or the certified association may make application to the Franklin Circuit Court for an order enjoining the act or acts or practices, and obtain a restraining order and preliminary injunction against the person.

The Committee on Banking and Insurance reported **HB 496**, with Committee Substitute attached thereto, **HB 527**, **HB 650**, with Committee Amendment attached thereto, **HB 676**, with Committee Amendment attached thereto, **HB 684**, **HB 739**, and **HJR 60**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 496, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 299.370 is amended to read as follows:

All portions of membership fees, policy fees, and assessments not necessarily used for expenses of writing insurance and payment of losses and expenses accrued at the time of their collection shall constitute a reserve fund, which may be used from time to time in anticipation of collection of assessments. The reserve fund shall be the property of the company, but in event of liquidation, voluntary or involuntary, the reserve fund shall be apportioned pro rata to the policyholders whose policies are in force at the time of liquidation, in proportion to the amount of premiums paid on the policies from the date of their issuance. The governing authorities of the company may invest the reserve fund or any portion of it in ***the same***[~~such~~] securities as fire insurance companies are[~~ now~~] permitted by law to invest in, and may pledge or sell the securities to raise money to more effectively carry out the lawful purposes of the company.

Section 2. KRS 304.2-065 is amended to read as follows:

(1) There is created within the Department of Insurance the position of early warning analyst.

(2) The commissioner shall appoint a qualified person to serve as early warning analyst.

(3) The early warning analyst shall detect domiciled companies and companies doing a significant amount of business in the Commonwealth that are in a hazardous or potentially hazardous financial condition.

(4) The early warning analyst shall be part of the Financial Standards and Examination Division.

(5) The early warning analyst shall:

  (a) Take advantage of the information available through the Insurance Regulatory Information System and use the information to monitor insurers;

  (b) Seek information from other states' detection programs;

  (c) Work with other Department of Insurance employees representing key regulatory areas of the department;

  (d) Coordinate and develop the use of an indicator list to determine if an insurer is in a hazardous condition. The indicator list shall include but is not limited to the following indicators:

    1. An insurer fails to file a timely financial statement as established in KRS Chapter 304;

    2. An insurer files financial information which is false or misleading;

    3. An insurer overstates its surplus by twenty-five percent (25%) or more;

    4. An insurer fails to grant authorization to amend its financial statement when requested;

    5. An insurer's financial ratios are outside of the ***usual***[~~acceptable~~] range established by the National Association of Insurance Commissioners in the Insurance Regulatory Information System;

    6. A projection by the department of an insurer's current financial condition indicates that the sum of its paid-in capital, paid-in surplus, and contributed surplus will be reduced within the next twelve (12) months;

    7. An insurer's aggregate net retained risk, direct or assumed, under any one (1) insurance policy or certificate of insurance under a group policy is more than ten percent (10%) of the insurer's surplus, except where otherwise permitted by law;

    8. An insurer's reserves for losses and loss adjustment expenses are discounted more than ten percent (10%) of the surplus;

    9. An affiliate or subsidiary of an insurer is unable to pay its obligations as the obligations become due and payable;

    10. A life, accident, and health insurer has premium writings that result in the surplus being less than five percent (5%) of the aggregate general account reserves for the life insurance in force plus twenty-five percent (25%) of the new annualized accident and health premium writing;

    11. An insurer has reinsurance reserve credits, recoverable or receivable, that are disputed by the reinsurer, or are due and payable and remain unpaid, and the reinsurance credits, recoverables, and receivables are

more than ten percent (10%) of an insurer's surplus;

12. An insurer consistently issues subordinate premium or surplus debentures to finance its operations;

13. An insurer fails to adequately maintain books and records in a manner that permits examiners to determine the financial condition of the insurer;

14. An insurer has reinsurance agreements affecting twenty percent (20%) or more of the insurer's gross written premiums, direct or assumed, and the assuming insurers are not licensed to do insurance business in the Commonwealth of Kentucky;

15. An insurer's management does not have the experience, competence, or trustworthiness to operate the insurer in a safe and sound manner;

16. An insurer's management engages in unlawful transactions;

17. An insurer fails to have an appraisal made on real estate upon which the insurer has made a mortgage loan;

18. An insurer fails to comply with the terms of an agreement with an affiliate;

19. An insurer has a pattern of refusing to settle valid claims within a reasonable time after due proof of the loss has been received;

20. An insurer fails to follow a policy on rating and underwriting standards appropriate to the risk;

21. An insurer violates KRS Chapter 304;

22. A final administrative or judicial order, initiated by an insurance regulatory agency of another state, is issued against an insurer; and

23. An insurer is in any condition that the commissioner finds is a hazard to policyholders, creditors, or the general public;

(e) Recommend regulatory action and provide status reports to the commissioner; and

(f) Appear before the Interim Joint Committee on Banking and Insurance or the Standing Committees on Banking and Insurance biannually to report on the status of domestic insurance companies and insurance companies doing a substantial amount of business in the Commonwealth of Kentucky.

Section 3. KRS 304.2-205 is amended to read as follows:

(1) The provisions of this section apply to all domestic, foreign, and alien insurers fraternal benefit societies, ***health maintenance organizations,*** and nonprofit hospital, medical-surgical, dental, and health service corporations authorized to transact business pursuant to this chapter.

(2) (a) Each domestic, foreign, and alien insurer and fraternal benefit society, ***health maintenance organization,*** and nonprofit hospital, medical-surgical, dental, and health service corporation authorized to transact business pursuant to this chapter shall annually on or before March 1 of each year file with the National Association of Insurance Commissioners a copy of its annual statement convention blank, along with[~~such~~] additional filings as prescribed by the commissioner, for the preceding year. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and the life and health actuarial certification. Any amendments or additions to the annual statement filing subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners;

(b) Foreign insurers***, health maintenance organizations,*** and fraternal benefit societies that are domiciled in states which have laws substantially similar to paragraph (a) of this subsection shall be deemed in compliance with this section; and

(c) Nothing contained in this section shall be deemed to require anyone filing documents with the National Association of Insurance Commissioners to pay any filing fee for ***a***[~~such~~] filing.

(3) Members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, National Association of Insurance Commissioners employees, and all others charged with the responsibility of collecting, reviewing, analyzing, or disseminating the information developed from the filing of the annual statement convention blanks shall not be subject to civil liability for defamation or any other cause of action by virtue of their collection, review, analysis, or dissemination of the data and information collected from the filings required by this section while acting in good faith.

Section 4. KRS 304.2-210 is amended to read as follows:

(1) For the purpose of determining financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations and compliance with law, the commissioner shall examine the affairs, transactions, accounts, records and assets of each authorized insurer as often as reasonably necessary. He shall so examine each domestic insurer not less frequently than every three (3) years. Examination of a reciprocal insurer may include examination of its

attorney-in-fact as to its transactions relating to the insurer. Examination of an alien insurer may be limited to its insurance transactions and affairs in the United States, except as the commissioner otherwise requires.

(2) The commissioner shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.

(3) In lieu of making his own examination, the commissioner may, in his discretion, accept a full report of the ***most recently completed***[~~last recent~~] examination of a foreign, or alien, insurer, certified to by the insurance supervisory official of another state.

(4) As far as practical, the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officers of other states in which the insurer transacts business, and for the purpose thereof the commissioner may participate in joint examinations of insurers or be represented in an examination by an examiner of another state.

Section 5. KRS 304.2-270 is amended to read as follows:

The report of examination of a domestic insurer, although filed in the department as provided in KRS 304.2-260 shall nevertheless not be for public inspection except as to those portions of the report showing the insurer's current financial condition. The comments and recommendations of the examiner(s) shall be deemed confidential information and shall not be available for public inspection, except that the commissioner may in his discretion disclose the content of an examination report, preliminary examination report, or results, or any matter relating to an examination report, to the Department of Insurance of any other state or country, or to law enforcement officials of this or any other state, or to an agency of ***this or any other state or*** the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this section and KRS 304.2-260.

Section 6. KRS 304.2-350 is amended to read as follows:

(1) If any person asks to be excused from attending or testifying or from producing any books, papers, records, contracts, documents, or other evidence in connection with any examination, hearing, or investigation being conducted by the commissioner, his deputy or examiner, or in any proceeding or action before any court upon a charge of violation of this code, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give[~~ such~~] testimony or produce[~~ such~~] evidence, he must, if so directed by the commissioner and the Attorney General, nonetheless comply with ***the***[~~such~~] direction; but he shall not thereafter be prosecuted or subjected to any ***criminal*** penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may have so testified or produced evidence, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation, or proceeding; except, however, that no[~~ such~~] person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in ***giving***[~~such~~] testimony, and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation, or proceeding concerning[~~ such~~] perjury.

(2) Any[~~ such~~] individual may execute, acknowledge, and file in the department a statement expressly waiving[~~ such~~] immunity or privilege in respect to any transaction, matter, or thing specified in ***a***[~~such~~] statement, and thereupon the testimony of ***the***[~~such~~] individual or ***the***[~~such~~] evidence in relation to ***the***[~~such~~] transaction, matter, or thing may be received or produced before any judge, court, tribunal, grand jury or otherwise, and if so received or produced ***the***[~~such~~] individual shall not be entitled to any immunity or privileges on account of any testimony he may so give or evidence so produced.

Section 7. KRS 304.3-150 is amended to read as follows:

To apply for an original certificate of authority an insurer shall file with the commissioner its written application therefor on forms as prescribed and furnished by the commissioner, accompanied by the applicable fees specified in Subtitle 4, stating under the oath of the president or vice-president or other chief officer and the secretary of the insurer, or of the attorney-in-fact (if a reciprocal insurer or Lloyd's plan insurer), the insurer's name, location of its principal office, the kinds of insurance to be transacted, date of organization or incorporation, form of organization, its domicile, and ***any***[~~such~~] additional information as the commissioner may reasonably require, together with the following documents, as applicable:

(1) If a corporation, a copy of its charter, together with all amendments thereto, or as restated and amended under the laws of its state or country of incorporation, currently certified by the public official with whom the originals are on file in ***a***[~~such~~] state or country.

(2) A copy of its bylaws, certified by the insurer's secretary.

(3) If a reciprocal insurer, a copy of the power of attorney of its attorney-in-fact, and copy of its subscribers agreement, if any, both certified by the attorney-in-fact; and if a domestic reciprocal insurer, the declaration provided for in KRS 304.2-060.

(4) If a Lloyd's plan insurer, the names and addresses of all of the underwriters proposing to engage in the business, along with the number of underwriters which shall not be less than twenty-five (25), and that each underwriter is worth in his own right not less than twenty thousand dollars ($20,000) over and above all his liabilities, along with a statement showing a list of all cash and invested assets owned by the associated underwriters and their value, certified and sworn

to by their duly authorized attorney-in-fact.

(5) A complete copy of its financial statement as of not earlier than the December 31 next preceding in form as customarily used in the United States by like insurers, sworn to by at least two (2) executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state or country of domicile.

(6) A copy of the report of last examination of the insurer prior to the filing of the application, certified by the public insurance supervisory official of the insurer's state or country of domicile.

(7) If a foreign or alien insurer, the name and address of the person to whom the Secretary of State shall forward lawful process served upon him. If a domestic reciprocal insurer, the name and address of the attorney designated pursuant to paragraph (e) of subsection (2) of KRS 304.27-060 shall be deemed to be the person to whom the Secretary of State shall forward lawful process served upon him. Any judgment against ***a***[~~such~~] domestic reciprocal so served shall be binding upon each of the insurer's subscribers as their respective contingent liabilities.

(8) If a foreign or alien insurer, a certificate of the public insurance supervisory official of its state or country of domicile showing that it is authorized or qualified for authority to transact in ***a***[~~such~~] state or country the kinds of insurance proposed to be transacted in this state.

(9) If an alien insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS ***304.3-140***[~~304.3-060~~], and a copy of the trust deed, if any, pertaining to ***a***[~~such~~] deposit, certified by the trustee.

(10) If a foreign insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140.

(11) If a life or health insurer, a copy of the insurer's rate book and of each form of policy currently proposed to be issued in this state, and of the form of application therefor.

(12) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

(13) Designation by the insurer of its officers or representatives authorized to appoint and remove its agents in this state.

(14) If to transact surety insurance, the names and addresses of all its attorneys in fact within this state together with the scope of authority of each[~~ such~~] attorney-in-fact.

Section 8. KRS 304.4-010 is amended to read as follows:

(1) The commissioner shall by regulation prescribe the fees charged by the commissioner and the services for which fees shall be charged, including the following fees:

(a) For copies of any document on file with the commissioner, per page, ***thirty***[~~fifty~~] cents ***($0.30)***[~~($0.50)~~]; and

(b) For copies of annual statements, per page, one dollar ($1).

(2) All[~~ such~~] fees shall be collected in advance.

(3) Notwithstanding subsection (2) of this section, an insurer submitting applications, appointments, or filings through the electronic system adopted by the department shall remit the applicable fees to the department within fifteen (15) calendar days of the electronic submission.

Section 9. KRS 304.9-105 is amended to read as follows:

For the protection of the people of this state, the commissioner shall not issue, continue or permit to exist, any permanent agent or solicitor license for or on behalf of any natural person unless ***the***[~~such~~] person demonstrates to the satisfaction of the commissioner that he is qualified therefor pursuant to the standards contained in this section and any other applicable section of this subtitle:

(1) That the person has attained the age of eighteen (18) years or more;

(2) That the person has fulfilled the residence requirements as set forth in KRS 304.9-120;

(3) That the person is trustworthy, reliable and of good reputation, evidence of which may be submitted on behalf of the person in the form of:

(a) A certificate by the insurer or agent by which or whom the person is to be appointed or employed, subject to the issuance of the license, stating that ***the***[~~such~~] insurer or agent has either made, or caused to be made by responsible investigators, an investigation into the trustworthiness, reliability, and good reputation of the person together with a brief synopsis of the findings resulting therefrom; or

(b) Three (3) letters of recommendation attesting to the trustworthiness, reliability, and good reputation of the person written on his behalf by persons not related to him by blood or marriage and one (1) of whom shall be a licensed resident insurance agent, which letters shall also state the extent of familiarity, both as to length of time and degree of knowledge, possessed by the writer with regard to both personal and business conduct of the person.

(4) That the person is competent to exercise the license and has:

(a) Successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state;

(b) Successfully completed[~~ such~~] specific courses of instruction in the field of insurance as the commissioner shall by regulation prescribe for ***a***[~~such~~] license when initially issued, which courses of instruction shall in the aggregate consist of or equal forty (40) hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the commissioner for ***the***[~~such~~] purpose and the successful completion of which shall be certified to the commissioner, on forms prescribed by him, by the person under whose supervision ***the***[~~such~~] instruction was administered. Programs of instruction provided by insurers authorized, or agent associations recognized, by the commissioner may be substituted for the specific courses of instruction prescribed by the commissioner when ***the***[~~such~~] programs have been reviewed and approved by the commissioner prior to their use, which approval shall not be unreasonably withheld if ***the***[~~such~~] programs of instruction are substantially similar in content and emphasis placed thereon to those prescribed by the commissioner;

(c) Successfully passed any written examination required by the commissioner for the license pursuant to KRS 304.9-160 unless exempt pursuant to KRS 304.9-170; and

(d) The requirements contained in this subsection and subsection (3) of this section shall not be applicable to the continuance of any license issued prior to June 17, 1978.

(5) That the person is financially responsible to exercise the license and has:

(a) Filed with the commissioner the certificate of an insurer authorized to write legal liability insurance in this state, that ***the***[~~such~~] insurer has and will keep in effect on behalf of ***the***[~~such~~] person a policy of insurance covering the legal liability of ***the***[~~such~~] licensed person as the result of erroneous acts or failure to act in his capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single[~~ such~~] occurrence in the sum of not less than ten thousand dollars ($10,000) and fifty thousand dollars ($50,000) in the aggregate for all[~~ such~~] occurrences within one (1) year, and that ***the***[~~such~~] policy shall not be terminated unless at least thirty (30) days' prior written notice will have been given to the commissioner; or

(b) Deposited with the commissioner cash, or a cash surety bond executed by an insurer authorized to write[~~ such~~] business in this Commonwealth, in the sum of ten thousand dollars ($10,000) which shall be subject to lawful levy of execution by any party to whom the licensed person has been found to be legally liable as the result of erroneous acts or failure to act in his capacity as an insurance agent; or

(c) Had filed with the commissioner on his behalf, by an authorized insurer or group of affiliated insurers for which he is or is to become an exclusive agent, an agreement whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of ***the***[~~such~~] licensed person as the result of erroneous acts or failure to act in his capacity as an insurance agent on behalf of ***the***[~~such~~] insurer or group of affiliated insurers in the sum of ten thousand dollars ($10,000) for any[~~ such~~] single occurrence and that ***the***[~~such~~] agreement shall not be terminated until the license is surrendered to the commissioner or at least thirty (30) days' prior written notice will have been given to the commissioner, whichever shall first occur; and

(d) Agreed with the commissioner that if at any time notice is given to the commissioner that any policy filed pursuant to paragraph (a) of this subsection, or agreement filed pursuant to paragraph (c) of this subsection, is to be terminated and has not been replaced by another[~~ such~~] policy or agreement within the time established by regulations of the commissioner, or if any deposit pursuant to paragraph (b) of this subsection be reduced through levy of execution and not replaced by any necessary additional deposit within the time established by regulations of the commissioner, any and all licenses held by ***the***[~~such~~] person are ***revoked***[~~suspended~~] and shall be promptly surrendered to the commissioner without demand.

(6) That the person, to whom an agent's license has been or is to be issued, is the duly appointed agent of an authorized insurer, subject to issuance of the license.

(7) That the person, to whom a solicitor's license has been or is to be issued, is regularly employed by a presently licensed resident agent, or is to be so employed subject to issuance of the license.

(8) ***Subsection***[~~Subsections~~] (4)(b)[~~ and (5)~~] of this section shall not apply to any person holding a limited license pursuant to KRS 304.9-230.

(9) No institution included in the Farm Credit System, as set forth and identified in 12 U.S.C. sec. 2002 (Public Law 92-181, sec. 1.2, Dec. 10, 1971, 85 Stat. 583) or any subsidiary or affiliate thereof doing business in this state, nor any officer or employee of any institution included in the Farm Credit System, or any subsidiary or affiliate thereof, may directly or indirectly be licensed to sell or solicit any type of insurance, except ***term life,*** credit life, accident***, disability*** and health, and crop hail insurance in an amount appropriate to insure repayment of the loan.

Section 10. KRS 304.9-150 is amended to read as follows:

(1) Application for an agent ***or***[~~,~~] solicitor[~~, or consultant~~] license shall be made to the commissioner by ***an insurer. The application for a consultant license shall be made by*** the applicant***.***[~~, and~~] ***Applications under this subsection shall*** be signed and sworn to by the applicant before a notary public or other person authorized by law to take acknowledgments of deeds.

(2) The form of application shall require full answers to ***any***[~~such~~] questions as may be reasonably necessary to determine the applicant's identity, residence, personal history, business record, financial responsibility, experience in insurance, purpose for which the license is to be used, and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

(3) If for an agent's or consultant's license the application shall state the kinds of insurance proposed to be transacted, and if an agent's, ***the application shall be deemed an***[~~be accompanied by written~~] appointment of the applicant as agent for ***the***[~~such~~] kinds of insurance, by an authorized insurer, subject to issuance of the license.

(4) If for solicitor's license, the application shall be accompanied by written appointment of the applicant as solicitor by a licensed resident general lines agent, subject to issuance of the license.

(5) If the applicant for an agent's license is a firm or corporation, the application shall show in addition, the names of all members, officers***,*** and directors, and shall designate each individual who is to exercise the license powers; and each[~~such~~] individual shall furnish information with respect to himself, as part of the application, as though for an individual license.

(6) If for license as agent, or solicitor, or consultant, the application shall also show whether the applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any[~~such~~] license was ever refused, suspended, revoked***,*** or renewal or continuance denied, whether any insurer, general agent, agent, claims applicant ***is***[~~to be~~] indebted to it, and if so, the details thereof; whether applicant has ever had an agency contract canceled, and the facts thereof; and, if applicant is a married person, like information with respect to the spouse.

(7) As part of ***the***[~~such~~] application for agent's or solicitor's license, the commissioner shall require the certificate of the insurer or agent, proposed to be represented, relative to applicant's identity, residence, experience***,*** or instruction as to the kinds of insurance to be transacted, trustworthiness***,*** and reputation.

(8) All[~~such~~] applications shall be accompanied by the applicable license fee, appointment fee, and examination fee, in the respective amounts stated in KRS 304.4-010.

(9) No applicant for license under this subtitle shall willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith.

Section 11. KRS 304.9-170 is amended to read as follows:

KRS 304.9-160 shall not apply and no such examination shall be required of:

(1) Any applicant for license covering the same kind or kinds of insurance as to which the applicant was licensed under a similar license in this state, other than a temporary license, within the twenty-four (24) months next preceding date of application, unless ***the***[~~such~~] previous license was revoked, suspended, or continuation thereof refused by the commissioner ***for reasons other than failure to maintain financial responsibility as required by Section 9 of this Act***.

(2) In the commissioner's discretion, any applicant who has been licensed under a similar license in another state within twelve (12) months prior to his application for license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in ***the***[~~such~~] other state as to applicant's license and good conduct in ***the***[~~such~~] state.

(3) Persons representing public carriers who, in the course of ***their***[~~such~~] representation, solicit or sell insurance incidental to the transportation of persons or to the storage or transportation of property.

(4) Persons soliciting or negotiating credit life, credit health and accident, credit personal property and credit unemployment insurance contracts.

(5) An applicant for an agent's license who is currently licensed as a solicitor or as a consultant as to the same kind or kinds of insurance, or has been so licensed within twelve (12) months next preceding the date of application for the license, unless ***the***[~~such~~] previous license was revoked or suspended or continuation thereof refused by the commissioner ***for reasons other than failure to maintain financial responsibility as required by Section 9 of this Act***.

(6) Any applicant for license covering the same kind or kinds of insurance as to which that applicant shall have held a valid license issued pursuant to this subtitle or other applicable Kentucky law which was surrendered, pursuant to KRS 304.2-080 or other applicable law, in order to accept employment with the Department of Insurance, provided, however, that ***the***[~~such~~] applicant shall apply for relicensing within one (1) year of the date of termination of his employment with the Department of Insurance.

(7) Persons soliciting or negotiating mechanical breakdown insurance contracts.

Section 12. KRS 304.9-220 is amended to read as follows:

(1) A life agent may concurrently be licensed as to as many life insurers as duly file appointments of the licensee with the commissioner and pay the ***license fee with the license application and the*** appointment fee ***with every appointment thereafter***, except as provided in subsection (2) of this section.

(2) Any life insurer may file a request with the commissioner for notification that any life agent authorized to represent it has

been appointed to represent another life insurer. Pursuant to ***a***[~~such~~] request for notice the commissioner shall notify ***the***[~~such~~] insurer of the appointment of life agents as life agents for other insurers.

Section 13. KRS 304.9-230 is amended to read as follows:

(1) The commissioner may issue to an applicant qualified therefor, including, but not limited to, financial responsibility pursuant to KRS 304.9-105(5), under this code limited agent's licenses as follows:

(a) Covering motor vehicle ***physical damage*** insurance only;

(b) To persons representing common carriers, as provided in KRS 304.9-170;

(c) Covering only insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured;

(d) Covering only credit life, credit health, credit personal property, and credit unemployment insurance;

(e) Covering agents writing mortgage guaranty insurance only;

(f) Covering agents:

1. Writing industrial life insurance only; or

2. Licensed by an insurer issuing policies having a face amount not in excess of five thousand dollars ($5,000) on the debit plan, if ***the***[~~such~~] agent actually collects and services a debit for ***the***[~~such~~] insurer;

(g) Covering agents writing only policies commonly referred to as mortgage redemption insurance, which consist of reducing term life insurance and accident and health insurance, if any, contained therein or sold in conjunction therewith;

(h) Covering agents writing crop-hail insurance only; and

(i) Covering agents writing mechanical breakdown insurance only.

(2) The fee for licenses is as specified in KRS 304.4-010.

Section 14. KRS 304.9-270 is amended to read as follows:

(1) Each insurer appointing an agent in this state shall file with the commissioner the appointment in writing, specifying the kinds of insurance or classifications thereof to be transacted by the agent for the insurer, and pay the ***license fee with the license application and the*** appointment fee ***with every appointment thereafter***, or license fee in the case of limited licenses, as specified in KRS 304.4-010.

(2) Subject to continuation by the insurer as provided in subsection (3) of this section, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in KRS 304.9-280.

(3) Biennially on or before March 31 each insurer shall file with the commissioner an alphabetical list of the names and addresses of all its agents in this state whose appointments or licenses in the case of limited licenses were in effect during the preceding calendar year and are to remain in effect as to the kinds of insurance or classifications thereof for which the respective agents are currently so appointed, accompanied by payment of the continuation of appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010. At the same time, the insurer shall also file with the commissioner an alphabetical list of the names and addresses of all its agents whose appointments in this state are not to remain in effect, or whose appointment as to certain kinds or classifications of insurance are not to remain in effect as designated in ***the***[~~such~~] list. Any appointment or license not so continued and not otherwise expressly terminated shall be deemed to have expired at midnight on March 31, except that any request for continuation received by the commissioner after[~~ such~~] March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his discretion, if accompanied by a penalty as provided in Subtitle 99 of this chapter.

Section 15. KRS 304.13-320 is amended to read as follows:

(1) The commissioner may suspend the license of any ***advisory***[~~rating~~] organization or insurer which fails to comply with an order of the commissioner within the time limited by the order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any ***advisory***[~~rating~~] organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until the order has been affirmed. The commissioner may modify or rescind a suspension at any time.

(2) No penalty shall be imposed and no license shall be suspended or revoked except upon a final order of the commissioner, stating his findings made after a hearing conducted in accordance with KRS Chapter 13B.

Section 16. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where ***the***[~~such~~] incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in ***a***[~~such~~] size of type or manner of reproduction ***so*** as to be substantially illegible.

(d) ***As to an individual, group, or blanket health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.***

(e) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(2) The insurer shall not use in this state any[~~ such~~] form after disapproval or withdrawal of approval.

Section 17. KRS 304.16-200 is amended to read as follows:

There shall be a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured individuals, every individual insured thereunder at the date of[~~ such~~] termination, whose insurance terminates and who has been so insured for at least five (5) years prior to ***the***[~~such~~] termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided in KRS 304.16-190, except that the group policy may provide that the amount of ***the***[~~such~~] individual policy shall not exceed the smaller of:

(1) The amount of the individual's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one (31) days of[~~ such~~] termination; and

(2) ***$10,000***[~~$2,000~~].

Section 18. KRS 304.17-030 is amended to read as follows:

No policy of health insurance shall be delivered or issued for delivery to any person in this state unless it otherwise complies with this title, and complies with the following:

(1) The entire money and other considerations therefor shall be expressed therein;

(2) The time when the insurance takes effect and terminates shall be expressed therein;

(3) It shall purport to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policyholder, any two (2) or more eligible members of that family, including husband, wife, ***unmarried*** dependent children ***to age***[~~ or any children under a specified age which shall not exceed~~] nineteen (19)***, unmarried children from nineteen (19) to twenty-five (25)*** years ***of age who are full time students enrolled in and attending an accredited educational institution and who are primarily dependent on the policyholder for maintenance and support,*** and any other person dependent upon the policyholder as provided pursuant to KRS 304.17-310;

(4) The style, arrangement***,*** and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any indorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten (10) point with a lower case unspaced alphabet length not less than one hundred and twenty (120) point (the "text" shall include all printed matter except the name and address of the insurer, name on title of the policy, the brief description, if any, and captions and subcaptions);

(5) The exceptions and reductions of indemnity shall be set forth in the policy and other than those contained in KRS 304.17-050 to 304.17-290, inclusive, shall be printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions," or "Exceptions and Reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of ***the***[~~such~~] exception or reduction shall be included with the benefit provision to which it applies;

(6) Each[~~ such~~] form, including riders and indorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution***,*** or bylaws of the insurer a part of the policy unless ***the***[~~such~~] portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

Section 19. KRS 304.17-060 is amended to read as follows:

(1) ***(a)*** There shall be a provision as follows:

"Time Limit on Certain Defenses: After three (3) years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for ***the***[~~such~~] policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of ***the***[~~such~~] three (3) year period."

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during ***the***[~~such~~] initial three (3) year period, nor to limit the application of KRS 304.17-190 to 304.17-230, inclusive, in the event of misstatement with respect to age or occupation or other insurance.)

A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (a) until at least age fifty (50) or (b) in the case of a policy issued after age forty-four (44) for at least five (5) years from its date of issue, may contain in lieu of the foregoing the following provision, from which the clause in parentheses may be omitted at the insurer's option, under the caption "Incontestable":

"After the policy has been in force for a period of three (3) years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application."

(b) No claim for loss incurred or disability as defined in the policy commencing after two (2) years from the date of issue of this policy, shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

(2) Paragraph (b) of subsection (1) of this section shall not apply to policies subject to KRS 304 Subtitle 17A.

Section 20. KRS 304.17-130 is amended to read as follows:

(1) There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting[~~ such~~] payment which may be prescribed herein and effective at the time of payment. If no[~~ such~~] designation or provision is then effective, ***any***[~~such~~] indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to ***a***[~~such~~] beneficiary or to ***the***[~~such~~] estate. All other indemnities will be payable to the insured."

(2) The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

(a) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $.... (insert an amount which shall not exceed ***$5,000***[~~$1000~~]), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of ***the***[~~such~~] payment."

(b) "Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of ***the***[~~such~~] loss, be paid directly to the hospital or person rendering [~~such~~] services; but it is not required that the service be rendered by a particular hospital or person."

Section 21. KRS 304.17-310 is amended to read as follows:

(1) Family expense health insurance is that provided under a policy issued to one (1) of the family members insured, who shall be deemed the policyholder, covering any two (2) or more eligible members of a family, including husband, wife, ***unmarried*** dependent children, ***to age***[~~ or any children under a specified age which shall not exceed~~] nineteen (19)***,*** ***unmarried children from nineteen (19) to twenty-five (25)*** years ***of age who are full time students enrolled in and attending an accredited educational institution and who are primarily dependent on the policyholder for maintenance and support***, and any other person dependent upon the policyholder. Any authorized health insurer may issue ***the***[~~such~~] insurance.

(2) An individual hospital or medical expense insurance policy or hospital or medical service plan contract delivered or issued for delivery in this state more than 120 days after June 13, 1968, which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of ***the***[~~such~~] limiting age shall not operate to terminate the coverage of ***the***[~~such~~] child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical disability and (b) chiefly dependent upon the policyholder or subscriber for support and maintenance, provided proof of ***the***[~~such~~] incapacity and dependency is furnished to the insurer or corporation by the policyholder or subscriber within thirty-one (31) days of the child's attainment of the limiting age and subsequently as may be required by the insurer or corporation but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

Section 22. KRS 304.18-127 is amended to read as follows:

(1) This section shall indicate the insurer responsible for liability in those instances in which one (1) insurer's group policy

replaces the group policy of another insurer.

(2) The prior insurer shall remain liable only to the extent of its accrued liabilities, extensions of benefits, and for persons who are under continued group health insurance coverage pursuant to KRS 304.18-110 at the time the group policy terminates. The position of the prior insurer shall be the same whether the group policyholder secures replacement coverage from a new insurer, self insures, or forgoes the provision of a group policy, except that termination of continued group health insurance coverage shall occur in accordance with KRS 304.18-110.

(3) The liability of a succeeding insurer shall be as follows:

(a) Each person who is eligible for coverage in accordance with the succeeding insurer's plan of benefits, in respect to classes eligible, ***actively***[~~activity~~] at work, and nonconfinement rules, shall be covered by that insurer's plan of benefits.

(b) Each person not covered under the succeeding insurer's plan of benefits in accordance with paragraph (a) of this subsection shall nevertheless be covered by the succeeding insurer in accordance with the following provisions if the person was validly covered, including benefit extensions, under the prior insurer on the date of termination of the prior insurer's group policy and if the person is a member of the class or classes of persons eligible for coverage under the succeeding insurer's plan. Any reference in the following provisions to a person who was or was not totally disabled shall be a reference to that person's status immediately prior to the date the succeeding insurer's coverage becomes effective.

1. The minimum level of benefits to be provided by the succeeding insurer shall be the applicable level of benefits of the prior insurer's group policy reduced by any benefits payable by the prior insurer under its group policy.

2. Coverage shall be provided by the succeeding insurer until at least the earliest of the following dates:

a. The date the person becomes insured according to paragraph (a) of this subsection;

b. For each type of coverage, the date the person's coverage would terminate in accordance with the succeeding insurer's group policy provisions applicable to individual termination of coverage; or

c. In the case of a person who was totally disabled and the type of coverage is one for which KRS 304.18-126 requires an extension of accrued liability, the end of extension of accrued liability which is required of the prior insurer by KRS 304.18-126, or, if the prior insurer's group policy is not subject to KRS 304.18-126, would have been required of that insurer had its group policy been subject to KRS 304.18-126 at the time the prior insurer's group policy was discontinued and replaced by the succeeding insurer's plan.

(c) In the case of a pre-existing conditions limitation in the succeeding insurer's group policy, the level of benefits applicable to pre-existing conditions of persons becoming covered by the succeeding insurer's plan in accordance with this subsection during the period of time this limitation applies under the succeeding insurer's group policy shall be the lesser of:

1. The benefits of the succeeding insurer's group policy determined without application of the pre-existing conditions limitation; or

2. The benefits of the prior insurer's group policy.

(d) The succeeding insurer, in applying any deductibles or waiting periods in its plan, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior group policy. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible provisions of the prior insurer's group policy during the ninety (90) days preceding the effective date of the succeeding insurer's group policy, but only to the extent these expenses are recognized under the terms of the succeeding insurer's group policy and are subject to similar deductible provisions.

(e) If a determination of the prior insurer's benefit is required by the succeeding insurer, at the succeeding insurer's request the prior insurer shall furnish a statement of the benefits available or pertinent information sufficient to permit verification of the benefit determination or the determination itself by the succeeding insurer. For purposes of this section, benefits of the prior insurer's group policy shall be determined in accordance with all of the definitions, conditions, and covered expense provisions of the prior insurer's group policy rather than those of the succeeding insurer's group policy. The benefit determination shall be made as if coverage had not been replaced by the succeeding insurer.

Section 23. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

(a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others;

2. Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1,500) pounds or less which is not used in the occupation, profession, or business of the insured; provided, however, that this section shall not apply:

   a. To any policy issued under an automobile assigned risk plan;

   b. To any policy insuring more than four (4) automobiles; or

   c. To any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards;

(b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits, and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, and automobile physical damage coverage;

(c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than three (3) months shall for the purpose of this section be considered as if written for a policy period or term of three (3) months. Provided, further, that any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and ***the***~~[such]~~ policy may be terminated at the expiration of any annual period upon giving seventy-five (75) days' notice of cancellation prior to ***the***~~[such]~~ anniversary date, and ***the***~~[such]~~ cancellation shall not be subject to any other provisions of this section; and

(d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of ***the***~~[such]~~ premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(2) (a) A notice of cancellation of a policy shall be effective only if it is based on one (1) or more of the following reasons:

1. Nonpayment of premium; or

2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date;

(b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy;

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy; and

(d) This subsection shall not apply to nonrenewal.

(3) No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least fourteen (14) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals.

(4) No insurer shall refuse to renew a policy of automobile insurance solely because of the age of the insured.

(5) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least seventy-five (75) days' advance notice of its intention not to renew.

(6) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of ***the***~~[such]~~ renewal.

(7) If the insurer has manifested its willingness to renew by mailing or delivering a renewal notice, bill, certificate, or policy to the first-named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date, unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first-named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist.

(8) (a) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date, shall constitute a presumption of receipt pursuant to subsection (7) of this section.

(b) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

(9) No insurer shall impose or request an additional premium higher than its standard premium for automobile insurance, cancel or refuse to issue a policy, or refuse to renew a policy solely because the insured or the applicant is an individual with a disability, so long as the disability does not substantially impair the person's mechanically assisted driving ability.

(10) When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which subsection (5) of this section applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. ***The***[~~Such~~] notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. ***The***[~~Such~~] notice shall also inform the insured that he may, within four (4) days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Within fourteen (14) days of receiving such a written request, the commissioner shall send his findings to the insurer and to the insured. When he sends his findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b). The party requesting the hearing shall give the commissioner written confirmation of attendance at the hearing not more than ***five (5)***[~~four (4)~~] days before, nor less than ***forty-eight (48)***[~~twenty-four (24)~~] hours before, the scheduled hearing. If the requesting party fails to give the required written confirmation, the commissioner shall cancel the hearing.

(11) The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.

(12) Except where the maximum limits of coverage have been purchased, every notice of first renewal shall include a provision or be accompanied by a notice stating in substance that added uninsured motorists, underinsured motorists, and personal injury protection coverages may be purchased by the insured.

(13) There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person, or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written, specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

Section 24. KRS 304.24-040 is amended to read as follows:

(1) This section applies to stock, combined stock and mutual life, or mutual insurers hereafter incorporated in this state. Such an insurer may be formed for the purpose of transacting any kind or kinds of insurance, as well as annuity business.

(2) Incorporators. Three (3) or more individuals, none of whom is less than eighteen (18) years of age, may incorporate a stock insurer; ten (10) or more[~~ such~~] individuals may incorporate a mutual insurer. At least a majority of the incorporators must be citizens of the United States. At least a majority of the incorporators must be residents of Kentucky.

(3) Articles. The incorporators shall deposit the articles of incorporation, in quadruplicate originals, with the commissioner, and ***the***[~~such~~] articles shall not be filed with the Secretary of State until approved by the commissioner as provided in KRS 304.24-050, and the commissioner's approval has been stamped upon or otherwise attached to the articles. In addition to the applicable requirements of laws in this state governing the incorporation of business corporations generally:

(a) The name of the corporation, which shall be subject to KRS ***304.3-100***[~~304.3-010~~], shall contain the words "insurance company;" if a mutual, or a combined stock and mutual, the word "mutual" must be a part of the name.

(b) The articles of incorporation shall specify the kind or kinds of insurance proposed to be transacted.

(c) Each share of capital stock shall have a par value of not less than $1.00.

(d) If a mutual, or a combined stock and mutual life, the articles of incorporation shall state the maximum contingent liability of its participating policyholder members, other than as to nonassessable policies, for payment of losses and expenses incurred. Such liability shall be as stated in the articles of incorporation, but shall not be less than one (1) or more than six (6) times the premium for member's policy at the annual premium rate for a term of one (1) year.

(e) The names and residence addresses of the incorporators.

(4) Unless otherwise provided in the articles of incorporation or an amendment thereto, each stockholder of a combined stock and mutual life insurance company shall, at all meetings, be entitled to one (1) vote for each share of common stock held by him, and each holder of a policy entitled to participate in profits or savings shall be a member and, as such, shall be entitled to vote on the same basis to which he would be entitled in a mutual company under KRS 304.24-210.

Section 25. KRS 304.29-261 is amended to read as follows:

(1) Every society transacting business in this state shall annually, on or before the first day of March, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay ***the***[~~a~~] fee ***required under Section 8 of this Act***[~~of ten dollars ($10)~~] for filing it. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

(2) As part of the annual statement, each society shall, on or before the first day of March, file with the commissioner a valuation of its certificates in force on December 31 last preceding. The commissioner may, in his discretion for cause shown, extend the time for filing the valuation for not more than two (2) calendar months. The valuation shall be done in accordance with the standards specified in KRS 304.29-251. The valuation and underlying data shall be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(3) A society failing to file the annual statement in the form and within the time provided by this section shall forfeit one hundred dollars ($100) for each day during which the default continues; and, upon notice by the commissioner, its authority to do business in this state shall cease while the default continues.

(4) Each society authorized to transact business in this state pursuant to this subtitle shall comply with KRS 304.2-205.

Section 26. KRS 304.30-040 is amended to read as follows:

(1) Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and shall issue a license if the applicant is qualified in accordance with this subtitle. If the commissioner does not so find, he shall, within ***sixty (60)***[~~thirty (30)~~] days after he has received the application, at the request of the applicant, give the applicant an administrative hearing. Hearings under this subtitle shall be conducted in accordance with KRS Chapter 13B.

(2) The commissioner shall issue or renew a license as may be applied for when he is satisfied that the person to be licensed:

(a) Is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(b) Has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for; and

(c) If a corporation, is a corporation incorporated under the laws of this state or a foreign corporation authorized to transact business in this state.

Section 27. KRS 304.37-110 is amended to read as follows:

(1) Any domestic insurer, either by itself or in cooperation with one (1) or more persons, may organize or acquire one (1) or more subsidiaries engaged in the following kinds of business:

(a) Any kind of insurance business authorized by the jurisdiction in which it is incorporated;

(b) Acting as an insurance agent for its parent or any of its parent's insurer subsidiaries;

(c) Investing, reinvesting, or trading in securities for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(d) Management of any investment company subject to or registered pursuant to the Investment Company Act of 1940, as amended, including related sales and services;

(e) Acting as a broker-dealer subject to or registered pursuant to the Securities Exchange Act of 1934, as amended;

(f) Rendering investment advice to governments, government agencies, corporations, or other organizations or groups;

(g) Rendering other services related to the operations of an insurance business, such as actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal, and collection services;

(h) Ownership and management of assets which the parent corporation may own or manage if the aggregate investment by the insurer and its subsidiaries acquired or organized pursuant to this paragraph shall not exceed the limitations applicable to these investments by the insurer. This paragraph shall not prohibit investments permitted under KRS 304.7-120;

(i) Acting as an administrative agent for a governmental instrumentality which is performing an insurance function;

(j) Financing of insurance premiums, agents, and other forms of consumer financing;

(k) Any other business activity determined by the commissioner to be reasonably ancillary to an insurance business; and

(l) Owning a corporation or corporations engaged or organized to engage exclusively in one (1) or more businesses specified in this section.

(2) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under this

chapter, a domestic insurer may also:

(a) Invest, in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiaries, amounts which do not exceed the lesser of ten percent (10%) of the insurer's assets or fifty percent (50%) of the insurer's surplus as regards policyholders, if after these investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs. In calculating the amount of these investments, investments in domestic or foreign insurance subsidiaries shall be excluded, and there shall be included:

1. Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

2. All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation;

(b) Invest any amount in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer, if each subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in paragraph (a) of this subsection or in KRS Chapter 304.7. For the purpose of this paragraph, "the total investment of the insurer" shall ***include***[~~exclude~~]:

1. Any direct investment by the insurer in an asset; and

2. The insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary;

(c) With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one (1) or more subsidiaries, if after the investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(3) Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subsection (2) of this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in this chapter applicable to the investments of insurers.

(4) Whether any investment pursuant to subsection (2) of this section meets the requirements shall be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, not including dividends.

(5) If an insurer ceases to control a subsidiary, it shall dispose of any investment made pursuant to this section within three (3) years of the time of the cessation of control, or within an extension of time as the commissioner may prescribe, unless at any time after the investment has been made, the investment has met the requirements for investment under any other provision of this chapter, and the insurer has notified the commissioner.

Section 28. KRS 304.38-090 is amended to read as follows:

Organizations subject to the provisions of this subtitle shall make and file with the commissioner and the Kentucky Certificate of Need and Licensure Board ***annually before March 1 of each***[~~within ninety (90) days from the end of the organization's fiscal~~] year, a statement under oath upon a form to be prescribed by the commissioner covering the preceding year, and shall include (a) a financial statement of the organization, including a balance sheet, receipts and disbursements for the preceding year; (b) the number of persons enrolled during the year, the number of enrollees as of the end of the year, the number of enrollments terminated during the year, and ***any***[~~such~~] other information relating to the operation of the health maintenance organization as may be prescribed by the commissioner in order to enable the commissioner to evaluate the performance of the health maintenance organization.

Section 29. KRS 304.43-030 is amended to read as follows:

(1) No prepaid dental plan organization shall deliver or issue for delivery in this state any contract describing dental care services available, or any endorsement, rider, or application which becomes a part thereof or any amendment thereto or modification thereof, until a copy of ***the***[~~such~~] form or contract or certificate and the schedule of fees or other periodic charges to be paid by the enrollees, has been filed with and approved by the commissioner. Each form, contract***,*** or certificate must contain a complete and clear statement of:

(a) The dental care services to which the enrollee is entitled;

(b) Any limitations on the services, benefits, deductible***,*** or copayments features;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of the dental care services.

(2) At the expiration of ***sixty (60)***[~~thirty (30)~~] days, the form or contract so filed shall be deemed approved unless it has been previously approved or disapproved by order of the commissioner. The commissioner may withdraw approval at any time with cause.

Section 30. KRS 304.44-010 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Department" means the Department of Insurance;

(2) "Mine subsidence" means the collapse of underground coal mines resulting in direct damage to a structure. It does not include loss caused by earthquake, landslide, ***water seepage,*** volcanic eruption, or collapse of storm,[~~ water seepage,~~] and sewer drains;

(3) "Mine subsidence insurance fund" or "fund" means the fund established by this subtitle and administered as determined by the department;

(4) "Policy" means a contract of insurance providing mine subsidence insurance;

(5) "Premium" means the gross rate charged policyholders for insurance provided by this subtitle;

(6) "Structure" means any dwelling, building, or fixture permanently affixed to realty, but does not include land, trees, plants, or crops; and

(7) "Administrator" means the organization designated by the commissioner of the department to administer the fund.

Section 31. KRS 304.44-030 is amended to read as follows:

After July 15, 1984, every insurance policy issued or renewed insuring on a direct basis a structure located in a county or portion of a county in this state except for counties exempted pursuant to KRS 304.44-060 shall include, at a separately stated premium, insurance for loss occurring after July 15, 1984, caused by mine subsidence unless waived in writing by the insured. The premium charged for coverage shall be the same as the premium level set by the administrator. The loss coverage shall be the loss in excess of two percent (2%) of the policy's total insured value, but at no time shall the deductible be less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500). The total insured value reinsured by the administrator shall not exceed ***one hundred thousand***[~~fifty thousand~~] dollars ***($100,000)***[~~($50,000)~~] per structure. The insurer shall not be required to write a policy for mine subsidence coverage in excess of the amount reimbursable from the fund as authorized by this subtitle.

Section 32. KRS 304.44-050 is amended to read as follows:

All insurers writing property insurance covering structures in this state shall enter into a reinsurance agreement with the administrator in which each insurer agrees to cede to the administrator one hundred percent (100%), up to ***one hundred thousand***[~~fifty thousand~~] dollars ***($100,000)***[~~($50,000)~~], of any subsidence insurance coverage issued and, in consideration of the ceding commission retained by the insurer, agrees to undertake adjustment of losses, and payment of taxes, and to absorb all other expenses of the insurer necessary for sale of policies and administration of the mine subsidence insurance program. The administrator shall agree to reimburse the insurer from the fund for all amounts paid policyholders for claims resulting from subsidence and shall pay from the fund all costs of administration incurred by the administrator, but an insurer is not required to pay any claim for any loss insured under this subtitle except to the extent that the amount available in the mine subsidence insurance fund is sufficient to reimburse the insurer for such claim. Claims made under the provisions of the subtitle shall not be deemed to constitute a debt, liability, or obligation of the Commonwealth or any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or any[~~ such~~] political subdivision except to the extent the fund has accumulated reserves from premiums, state or federal grants, investment income, or state appropriations.

Section 33. KRS 56.080 is amended to read as follows:

Before July 1 of each year, the Department of Insurance shall reconsider its appraisal and valuation of public buildings and personal property belonging to or under the control and use of the state or any state agency, and shall certify any changes in value to the agency that has the custody or control of the property. The appraisal and valuation shall equal the amount that the Department of Insurance deems necessary to replace the property at the time of the appraisal, ***which may be*** less actual depreciation.

Section 34. The following KRS section is repealed:

304.39-350 Commissioner's report on total payments made by insurers for personal injury accidents.

The Committee Substitute to **HB 496** is as follows:

AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 299.370 is amended to read as follows:

All portions of membership fees, policy fees***,*** and assessments not necessarily used for expenses of writing insurance and payment of losses and expenses accrued at the time of their collection shall constitute a reserve fund, which may be used from time to time in anticipation of collection of assessments. The reserve fund shall be the property of the company, but in event of liquidation, voluntary or involuntary, the reserve fund shall be apportioned pro rata to the policyholders whose policies are in force at the time of liquidation, in proportion to the amount of premiums paid on the policies from the date of their issuance. The governing authorities of the company may invest the reserve fund or any portion of it in ***the same***[~~such~~] securities as fire insurance companies are[~~ now~~] permitted by law to invest in, and may pledge or sell the securities to raise money to more effectively carry out the lawful purposes of the company.

Section 2. KRS 304.2-065 is amended to read as follows:

(1) There is created within the Department of Insurance the position of early warning analyst.

(2) The commissioner shall appoint a qualified person to serve as early warning analyst.

(3) The early warning analyst shall detect domiciled companies and companies doing a significant amount of business in the Commonwealth that are in a hazardous or potentially hazardous financial condition.

(4) The early warning analyst shall be part of the Financial Standards and Examination Division.

(5) The early warning analyst shall:

(a) Take advantage of the information available through the Insurance Regulatory Information System and use the information to monitor insurers;

(b) Seek information from other states' detection programs;

(c) Work with other Department of Insurance employees representing key regulatory areas of the department;

(d) Coordinate and develop the use of an indicator list to determine if an insurer is in a hazardous condition. The indicator list shall include but is not limited to the following indicators:

1. An insurer fails to file a timely financial statement as established in KRS Chapter 304;

2. An insurer files financial information which is false or misleading;

3. An insurer overstates its surplus by twenty-five percent (25%) or more;

4. An insurer fails to grant authorization to amend its financial statement when requested;

5. An insurer's financial ratios are outside of the ***usual***[~~acceptable~~] range established by the National Association of Insurance Commissioners in the Insurance Regulatory Information System;

6. A projection by the department of an insurer's current financial condition indicates that the sum of its paid-in capital, paid-in surplus, and contributed surplus will be reduced within the next twelve (12) months;

7. An insurer's aggregate net retained risk, direct or assumed, under any one (1) insurance policy or certificate of insurance under a group policy is more than ten percent (10%) of the insurer's surplus, except where otherwise permitted by law;

8. An insurer's reserves for losses and loss adjustment expenses are discounted more than ten percent (10%) of the surplus;

9. An affiliate or subsidiary of an insurer is unable to pay its obligations as the obligations become due and payable;

10. A life, accident, and health insurer has premium writings that result in the surplus being less than five percent (5%) of the aggregate general account reserves for the life insurance in force plus twenty-five percent (25%) of the new annualized accident and health premium writing;

11. An insurer has reinsurance reserve credits, recoverable or receivable, that are disputed by the reinsurer, or are due and payable and remain unpaid, and the reinsurance credits, recoverables, and receivables are more than ten percent (10%) of an insurer's surplus;

12. An insurer consistently issues subordinate premium or surplus debentures to finance its operations;

13. An insurer fails to adequately maintain books and records in a manner that permits examiners to determine the financial condition of the insurer;

14. An insurer has reinsurance agreements affecting twenty percent (20%) or more of the insurer's gross written premiums, direct or assumed, and the assuming insurers are not licensed to do insurance business in the Commonwealth of Kentucky;

15. An insurer's management does not have the experience, competence, or trustworthiness to operate the insurer in a safe and sound manner;

16. An insurer's management engages in unlawful transactions;

17. An insurer fails to have an appraisal made on real estate upon which the insurer has made a mortgage

loan;

18. An insurer fails to comply with the terms of an agreement with an affiliate;

19. An insurer has a pattern of refusing to settle valid claims within a reasonable time after due proof of the loss has been received;

20. An insurer fails to follow a policy on rating and underwriting standards appropriate to the risk;

21. An insurer violates KRS Chapter 304;

22. A final administrative or judicial order, initiated by an insurance regulatory agency of another state, is issued against an insurer; and

23. An insurer is in any condition that the commissioner finds is a hazard to policyholders, creditors, or the general public;

(e) Recommend regulatory action and provide status reports to the commissioner; and

(f) Appear before the Interim Joint Committee on Banking and Insurance or the Standing Committees on Banking and Insurance biannually to report on the status of domestic insurance companies and insurance companies doing a substantial amount of business in the Commonwealth of Kentucky.

Section 3. KRS 304.2-205 is amended to read as follows:

(1) The provisions of this section apply to all domestic, foreign, and alien insurers fraternal benefit societies, ***health maintenance organizations,*** and nonprofit hospital, medical-surgical, dental, and health service corporations authorized to transact business pursuant to this chapter.

(2) (a) Each domestic, foreign, and alien insurer and fraternal benefit society, ***health maintenance organization,*** and nonprofit hospital, medical-surgical, dental, and health service corporation authorized to transact business pursuant to this chapter shall annually on or before March 1 of each year file with the National Association of Insurance Commissioners a copy of its annual statement convention blank, along with[~~ such~~] additional filings as prescribed by the commissioner, for the preceding year. The information filed with the National Association of Insurance Commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and the life and health actuarial certification. Any amendments or additions to the annual statement filing subsequently filed with the commissioner shall also be filed with the National Association of Insurance Commissioners;

(b) Foreign insurers***, health maintenance organizations,*** and fraternal benefit societies that are domiciled in states which have laws substantially similar to paragraph (a) of this subsection shall be deemed in compliance with this section; and

(c) Nothing contained in this section shall be deemed to require anyone filing documents with the National Association of Insurance Commissioners to pay any filing fee for ***a***[~~such~~] filing.

(3) Members of the National Association of Insurance Commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, National Association of Insurance Commissioners employees, and all others charged with the responsibility of collecting, reviewing, analyzing, or disseminating the information developed from the filing of the annual statement convention blanks shall not be subject to civil liability for defamation or any other cause of action by virtue of their collection, review, analysis, or dissemination of the data and information collected from the filings required by this section while acting in good faith.

Section 4. KRS 304.2-210 is amended to read as follows:

(1) For the purpose of determining financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations and compliance with law, the commissioner shall examine the affairs, transactions, accounts, records and assets of each authorized insurer as often as reasonably necessary. He shall so examine each domestic insurer not less frequently than every three (3) years. Examination of a reciprocal insurer may include examination of its attorney-in-fact as to its transactions relating to the insurer. Examination of an alien insurer may be limited to its insurance transactions and affairs in the United States, except as the commissioner otherwise requires.

(2) The commissioner shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.

(3) In lieu of making his own examination, the commissioner may, in his discretion, accept a full report of the ***most recently completed***[~~last recent~~] examination of a foreign, or alien, insurer, certified to by the insurance supervisory official of another state.

(4) As far as practical, the examination of a foreign or alien insurer shall be made in cooperation with the insurance supervisory officers of other states in which the insurer transacts business, and for the purpose thereof the commissioner may participate in joint examinations of insurers or be represented in an examination by an examiner of another state.

Section 5. KRS 304.2-270 is amended to read as follows:

The report of examination of a domestic insurer, although filed in the department as provided in KRS 304.2-260 shall nevertheless not be for public inspection except as to those portions of the report showing the insurer's current financial condition. The comments and recommendations of the examiner(s) shall be deemed confidential information and shall not be available for public inspection, except that the commissioner may in his discretion disclose the content of an examination report, preliminary examination report, or results, or any matter relating to an examination report, to the Department of Insurance of any other state or country, or to law enforcement officials of this or any other state, or to an agency of ***this or any other state or*** the federal government at any time, if the agency or office receiving the report or matters relating to the report agrees in writing to hold it confidential and in a manner consistent with this section and KRS 304.2-260.

Section 6. KRS 304.2-350 is amended to read as follows:

(1) If any person asks to be excused from attending or testifying or from producing any books, papers, records, contracts, documents, or other evidence in connection with any examination, hearing, or investigation being conducted by the commissioner, his deputy or examiner, or in any proceeding or action before any court upon a charge of violation of this code, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give[~~ such~~] testimony or produce[~~ such~~] evidence, he must, if so directed by the commissioner and the Attorney General, nonetheless comply with ***the***[~~such~~] direction; but he shall not thereafter be prosecuted or subjected to any ***criminal*** penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may have so testified or produced evidence, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation, or proceeding; except, however, that no[~~ such~~] person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in ***giving***[~~such~~] testimony, and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation, or proceeding concerning[~~ such~~] perjury.

(2) Any[~~ such~~] individual may execute, acknowledge, and file in the department a statement expressly waiving[~~ such~~] immunity or privilege in respect to any transaction, matter, or thing specified in ***a***[~~such~~] statement, and thereupon the testimony of ***the***[~~such~~] individual or ***the***[~~such~~] evidence in relation to ***the***[~~such~~] transaction, matter, or thing may be received or produced before any judge, court, tribunal, grand jury or otherwise, and if so received or produced ***the***[~~such~~] individual shall not be entitled to any immunity or privileges on account of any testimony he may so give or evidence so produced.

Section 7. KRS 304.3-150 is amended to read as follows:

To apply for an original certificate of authority an insurer shall file with the commissioner its written application therefor on forms as prescribed and furnished by the commissioner, accompanied by the applicable fees specified in Subtitle 4, stating under the oath of the president or vice-president or other chief officer and the secretary of the insurer, or of the attorney-in-fact (if a reciprocal insurer or Lloyd's plan insurer), the insurer's name, location of its principal office, the kinds of insurance to be transacted, date of organization or incorporation, form of organization, its domicile, and ***any***[~~such~~] additional information as the commissioner may reasonably require, together with the following documents, as applicable:

(1) If a corporation, a copy of its charter, together with all amendments thereto, or as restated and amended under the laws of its state or country of incorporation, currently certified by the public official with whom the originals are on file in ***a***[~~such~~] state or country.

(2) A copy of its bylaws, certified by the insurer's secretary.

(3) If a reciprocal insurer, a copy of the power of attorney of its attorney-in-fact, and copy of its subscribers agreement, if any, both certified by the attorney-in-fact; and if a domestic reciprocal insurer, the declaration provided for in KRS 304.2-060.

(4) If a Lloyd's plan insurer, the names and addresses of all of the underwriters proposing to engage in the business, along with the number of underwriters which shall not be less than twenty-five (25), and that each underwriter is worth in his own right not less than twenty thousand dollars ($20,000) over and above all his liabilities, along with a statement showing a list of all cash and invested assets owned by the associated underwriters and their value, certified and sworn to by their duly authorized attorney-in-fact.

(5) A complete copy of its financial statement as of not earlier than the December 31 next preceding in form as customarily used in the United States by like insurers, sworn to by at least two (2) executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state or country of domicile.

(6) A copy of the report of last examination of the insurer prior to the filing of the application, certified by the public insurance supervisory official of the insurer's state or country of domicile.

(7) If a foreign or alien insurer, the name and address of the person to whom the Secretary of State shall forward lawful process served upon him. If a domestic reciprocal insurer, the name and address of the attorney designated pursuant to paragraph (e) of subsection (2) of KRS 304.27-060 shall be deemed to be the person to whom the Secretary of State shall forward lawful process served upon him. Any judgment against ***a***[~~such~~] domestic reciprocal so served shall be binding upon each of the insurer's subscribers as their respective contingent liabilities.

(8) If a foreign or alien insurer, a certificate of the public insurance supervisory official of its state or country of domicile showing that it is authorized or qualified for authority to transact in ***a***[~~such~~] state or country the kinds of insurance proposed to be transacted in this state.

(9) If an alien insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS ***304.3-140***[~~304.3-060~~], and a copy of the trust deed, if any, pertaining to ***a***[~~such~~] deposit, certified by the trustee.

(10) If a foreign insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140.

(11) If a life or health insurer, a copy of the insurer's rate book and of each form of policy currently proposed to be issued in this state, and of the form of application therefor.

(12) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

(13) Designation by the insurer of its officers or representatives authorized to appoint and remove its agents in this state.

(14) If to transact surety insurance, the names and addresses of all its attorneys in fact within this state together with the scope of authority of each[~~ such~~] attorney-in-fact.

Section 8. KRS 304.4-010 is amended to read as follows:

(1) The commissioner shall by regulation prescribe the fees charged by the commissioner and the services for which fees shall be charged, including the following fees:

(a) For copies of any document on file with the commissioner, per page, ***thirty***[~~fifty~~] cents ***($0.30)***[~~($0.50)~~]; and

(b) For copies of annual statements, per page, one dollar ($1).

(2) All[~~ such~~] fees shall be collected in advance.

(3) Notwithstanding subsection (2) of this section, an insurer submitting applications, appointments, or filings through the electronic system adopted by the department shall remit the applicable fees to the department within fifteen (15) calendar days of the electronic submission.

Section 9. KRS 304.9-105 is amended to read as follows:

For the protection of the people of this state, the commissioner shall not issue, continue or permit to exist, any permanent agent or solicitor license for or on behalf of any natural person unless ***the***[~~such~~] person demonstrates to the satisfaction of the commissioner that he is qualified therefor pursuant to the standards contained in this section and any other applicable section of this subtitle:

(1) That the person has attained the age of eighteen (18) years or more;

(2) That the person has fulfilled the residence requirements as set forth in KRS 304.9-120;

(3) That the person is trustworthy, reliable and of good reputation, evidence of which may be submitted on behalf of the person in the form of:

(a) A certificate by the insurer or agent by which or whom the person is to be appointed or employed, subject to the issuance of the license, stating that ***the***[~~such~~] insurer or agent has either made, or caused to be made by responsible investigators, an investigation into the trustworthiness, reliability***,*** and good reputation of the person together with a brief synopsis of the findings resulting therefrom; or

(b) Three (3) letters of recommendation attesting to the trustworthiness, reliability***,*** and good reputation of the person written on his behalf by persons not related to him by blood or marriage and one (1) of whom shall be a licensed resident insurance agent, which letters shall also state the extent of familiarity, both as to length of time and degree of knowledge, possessed by the writer with regard to both personal and business conduct of the person.

(4) That the person is competent to exercise the license and has:

(a) Successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state;

(b) Successfully completed[~~ such~~] specific courses of instruction in the field of insurance as the commissioner shall by regulation prescribe for ***a***[~~such~~] license when initially issued, which courses of instruction shall in the aggregate consist of or equal forty (40) hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the commissioner for ***the***[~~such~~] purpose and the successful completion of which shall be certified to the commissioner, on forms prescribed by him, by the person under whose supervision ***the***[~~such~~] instruction was administered. Programs of instruction provided by insurers authorized, or agent associations recognized, by the commissioner may be substituted for the specific courses of instruction prescribed by the commissioner when ***the***[~~such~~] programs have been reviewed and approved by the commissioner prior to their use, which approval shall not be unreasonably withheld if ***the***[~~such~~] programs of instruction are substantially similar in content and emphasis placed thereon to those prescribed by the commissioner;

(c) Successfully passed any written examination required by the commissioner for the license pursuant to KRS

304.9-160 unless exempt pursuant to KRS 304.9-170; and

(d) The requirements contained in this subsection and subsection (3) of this section shall not be applicable to the continuance of any license issued prior to June 17, 1978.

(5) That the person is financially responsible to exercise the license and has:

(a) Filed with the commissioner the certificate of an insurer authorized to write legal liability insurance in this state, that ***the***[~~such~~] insurer has and will keep in effect on behalf of ***the***[~~such~~] person a policy of insurance covering the legal liability of ***the***[~~such~~] licensed person as the result of erroneous acts or failure to act in his capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single[~~ such~~] occurrence in the sum of not less than ten thousand dollars ($10,000) and fifty thousand dollars ($50,000) in the aggregate for all[~~ such~~] occurrences within one (1) year, and that ***the***[~~such~~] policy shall not be terminated unless at least thirty (30) days' prior written notice will have been given to the commissioner; or

(b) Deposited with the commissioner cash, or a cash surety bond executed by an insurer authorized to write[~~ such~~] business in this Commonwealth, in the sum of ten thousand dollars ($10,000) which shall be subject to lawful levy of execution by any party to whom the licensed person has been found to be legally liable as the result of erroneous acts or failure to act in his capacity as an insurance agent; or

(c) Had filed with the commissioner on his behalf, by an authorized insurer or group of affiliated insurers for which he is or is to become an exclusive agent, an agreement whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of ***the***[~~such~~] licensed person as the result of erroneous acts or failure to act in his capacity as an insurance agent on behalf of ***the***[~~such~~] insurer or group of affiliated insurers in the sum of ten thousand dollars ($10,000) for any[~~ such~~] single occurrence and that ***the***[~~such~~] agreement shall not be terminated until the license is surrendered to the commissioner or at least thirty (30) days' prior written notice will have been given to the commissioner, whichever shall first occur; and

(d) Agreed with the commissioner that if at any time notice is given to the commissioner that any policy filed pursuant to paragraph (a) of this subsection, or agreement filed pursuant to paragraph (c) of this subsection, is to be terminated and has not been replaced by another[~~ such~~] policy or agreement within the time established by regulations of the commissioner, or if any deposit pursuant to paragraph (b) of this subsection be reduced through levy of execution and not replaced by any necessary additional deposit within the time established by regulations of the commissioner, any and all licenses held by ***the***[~~such~~] person are ***revoked***[~~suspended~~] and shall be promptly surrendered to the commissioner without demand.

(6) That the person, to whom an agent's license has been or is to be issued, is the duly appointed agent of an authorized insurer, subject to issuance of the license.

(7) That the person, to whom a solicitor's license has been or is to be issued, is regularly employed by a presently licensed resident agent, or is to be so employed subject to issuance of the license.

(8) ***Subsection***[~~Subsections~~] (4)(b)[~~ and (5)~~] of this section shall not apply to any person holding a limited license pursuant to KRS 304.9-230.

(9) No institution included in the Farm Credit System, as set forth and identified in 12 U.S.C. sec. 2002 (Public Law 92-181, sec. 1.2, Dec. 10, 1971, 85 Stat. 583) or any subsidiary or affiliate thereof doing business in this state, nor any officer or employee of any institution included in the Farm Credit System, or any subsidiary or affiliate thereof, may directly or indirectly be licensed to sell or solicit any type of insurance, except ***term life,*** credit life, accident***, disability*** and health, and crop hail insurance in an amount appropriate to insure repayment of the loan.

Section 10. KRS 304.9-150 is amended to read as follows:

(1) Application for an agent ***or***[~~,~~] solicitor[~~, or consultant~~] license shall be made to the commissioner by ***an insurer. The application for a consultant license shall be made by*** the applicant***.***[~~, and~~] ***Applications under this subsection shall*** be signed and sworn to by the applicant before a notary public or other person authorized by law to take acknowledgments of deeds.

(2) The form of application shall require full answers to ***any***[~~such~~] questions as may be reasonably necessary to determine the applicant's identity, residence, personal history, business record, financial responsibility, experience in insurance, purpose for which the license is to be used, and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

(3) If for an agent's or consultant's license the application shall state the kinds of insurance proposed to be transacted, and if an agent's, ***the application shall be deemed an***[~~be accompanied by written~~] appointment of the applicant as agent for ***the***[~~such~~] kinds of insurance, by an authorized insurer, subject to issuance of the license.

(4) If for solicitor's license, the application shall be accompanied by written appointment of the applicant as solicitor by a licensed resident general lines agent, subject to issuance of the license.

(5) If the applicant for an agent's license is a firm or corporation, the application shall show in addition, the names of all

members, officers, and directors, and shall designate each individual who is to exercise the license powers; and each[~~ such~~] individual shall furnish information with respect to himself, as part of the application, as though for an individual license.

(6) If for license as agent, or solicitor, or consultant, the application shall also show whether the applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any[~~ such~~] license was ever refused, suspended, revoked, or renewal or continuance denied, whether any insurer, general agent, agent, claims applicant ***is***[~~to be~~] indebted to it, and if so, the details thereof; whether applicant has ever had an agency contract canceled, and the facts thereof; and, if applicant is a married person, like information with respect to the spouse.

(7) As part of ***the***[~~such~~] application for agent's or solicitor's license, the commissioner shall require the certificate of the insurer or agent, proposed to be represented, relative to applicant's identity, residence, experience, or instruction as to the kinds of insurance to be transacted, trustworthiness, and reputation.

(8) All[~~ such~~] applications shall be accompanied by the applicable license fee, appointment fee, and examination fee, in the respective amounts stated in KRS 304.4-010.

(9) No applicant for license under this subtitle shall willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith.

Section 11. KRS 304.9-170 is amended to read as follows:

KRS 304.9-160 shall not apply and no such examination shall be required of:

(1) Any applicant for license covering the same kind or kinds of insurance as to which the applicant was licensed under a similar license in this state, other than a temporary license, within the twenty-four (24) months next preceding date of application, unless ***the***[~~such~~] previous license was revoked, suspended, or continuation thereof refused by the commissioner ***for reasons other than failure to maintain financial responsibility as required by Section 9 of this Act***.

(2) In the commissioner's discretion, any applicant who has been licensed under a similar license in another state within twelve (12) months prior to his application for license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in ***the***[~~such~~] other state as to applicant's license and good conduct in ***the***[~~such~~] state.

(3) Persons representing public carriers who, in the course of ***their***[~~such~~] representation, solicit or sell insurance incidental to the transportation of persons or to the storage or transportation of property.

(4) Persons soliciting or negotiating credit life, credit health and accident, credit personal property and credit unemployment insurance contracts.

(5) An applicant for an agent's license who is currently licensed as a solicitor or as a consultant as to the same kind or kinds of insurance, or has been so licensed within twelve (12) months next preceding the date of application for the license, unless ***the***[~~such~~] previous license was revoked or suspended or continuation thereof refused by the commissioner ***for reasons other than failure to maintain financial responsibility as required by Section 9 of this Act***.

(6) Any applicant for license covering the same kind or kinds of insurance as to which that applicant shall have held a valid license issued pursuant to this subtitle or other applicable Kentucky law which was surrendered, pursuant to KRS 304.2-080 or other applicable law, in order to accept employment with the Department of Insurance, provided, however, that ***the***[~~such~~] applicant shall apply for relicensing within one (1) year of the date of termination of his employment with the Department of Insurance.

(7) Persons soliciting or negotiating mechanical breakdown insurance contracts.

Section 12. KRS 304.9-220 is amended to read as follows:

(1) A life agent may concurrently be licensed as to as many life insurers as duly file appointments of the licensee with the commissioner and pay the ***license fee with the license application and the*** appointment fee ***with every appointment thereafter***, except as provided in subsection (2) of this section.

(2) Any life insurer may file a request with the commissioner for notification that any life agent authorized to represent it has been appointed to represent another life insurer. Pursuant to ***a***[~~such~~] request for notice the commissioner shall notify ***the***[~~such~~] insurer of the appointment of life agents as life agents for other insurers.

Section 13. KRS 304.9-230 is amended to read as follows:

(1) The commissioner may issue to an applicant qualified therefor, including, but not limited to, financial responsibility pursuant to KRS 304.9-105(5), under this code limited agent's licenses as follows:

  (a) Covering motor vehicle ***physical damage*** insurance only;

  (b) To persons representing common carriers, as provided in KRS 304.9-170;

  (c) Covering only insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured;

(d) Covering only credit life, credit health, credit personal property***,*** and credit unemployment insurance;

(e) Covering agents writing mortgage guaranty insurance only;

(f) Covering agents:

1. Writing industrial life insurance only; or

2. Licensed by an insurer issuing policies having a face amount not in excess of five thousand dollars ($5,000) on the debit plan, if ***the***[~~such~~] agent actually collects and services a debit for ***the***[~~such~~] insurer;

(g) Covering agents writing only policies commonly referred to as mortgage redemption insurance, which consist of reducing term life insurance and accident and health insurance, if any, contained therein or sold in conjunction therewith;

(h) Covering agents writing crop-hail insurance only; and

(i) Covering agents writing mechanical breakdown insurance only.

(2) The fee for licenses is as specified in KRS 304.4-010.

Section 14. KRS 304.9-270 is amended to read as follows:

(1) Each insurer appointing an agent in this state shall file with the commissioner the appointment in writing, specifying the kinds of insurance or classifications thereof to be transacted by the agent for the insurer, and pay the ***license fee with the license application and the*** appointment fee ***with every appointment thereafter***, or license fee in the case of limited licenses, as specified in KRS 304.4-010.

(2) Subject to continuation by the insurer as provided in subsection (3) of this section, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in KRS 304.9-280.

(3) Biennially on or before March 31 each insurer shall file with the commissioner an alphabetical list of the names and addresses of all its agents in this state whose appointments or licenses in the case of limited licenses were in effect during the preceding calendar year and are to remain in effect as to the kinds of insurance or classifications thereof for which the respective agents are currently so appointed, accompanied by payment of the continuation of appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010. At the same time, the insurer shall also file with the commissioner an alphabetical list of the names and addresses of all its agents whose appointments in this state are not to remain in effect, or whose appointment as to certain kinds or classifications of insurance are not to remain in effect as designated in ***the***[~~such~~] list. Any appointment or license not so continued and not otherwise expressly terminated shall be deemed to have expired at midnight on March 31, except that any request for continuation received by the commissioner after[~~ such~~] March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his discretion, if accompanied by a penalty as provided in Subtitle 99 of this chapter.

(4) Nothing in this chapter shall prevent an insurer from obtaining reimbursement from its agents for license fees paid if those agents exclusively represent the insurer or a group of insurers under common management.

Section 15. KRS 304.13-320 is amended to read as follows:

(1) The commissioner may suspend the license of any ***advisory***[~~rating~~] organization or insurer which fails to comply with an order of the commissioner within the time limited by the order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any ***advisory***[~~rating~~] organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until the order has been affirmed. The commissioner may modify or rescind a suspension at any time.

(2) No penalty shall be imposed and no license shall be suspended or revoked except upon a final order of the commissioner, stating his findings made after a hearing conducted in accordance with KRS Chapter 13B.

Section 16. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where ***the***[~~such~~] incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in ***a***[~~such~~] size of type or manner of reproduction ***so*** as to be substantially illegible.

(d) ***As to an individual, group, or blanket health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.***

(e) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(2) The insurer shall not use in this state any[~~ such~~] form after disapproval or withdrawal of approval.

Section 17. KRS 304.16-200 is amended to read as follows:

There shall be a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured individuals, every individual insured thereunder at the date of[~~ such~~] termination, whose insurance terminates and who has been so insured for at least five (5) years prior to ***the***[~~such~~] termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided in KRS 304.16-190, except that the group policy may provide that the amount of ***the***[~~such~~] individual policy shall not exceed the smaller of:

(1) The amount of the individual's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one (31) days of[~~ such~~] termination; and

(2) ***$10,000***[~~$2,000~~].

Section 18. KRS 304.17-030 is amended to read as follows:

No policy of health insurance shall be delivered or issued for delivery to any person in this state unless it otherwise complies with this title, and complies with the following:

(1) The entire money and other considerations therefor shall be expressed therein;

(2) The time when the insurance takes effect and terminates shall be expressed therein;

(3) It shall purport to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policyholder, any two (2) or more eligible members of that family, including husband, wife, ***unmarried*** dependent children ***to age***[~~ or any children under a specified age which shall not exceed~~] nineteen (19)***, unmarried children from nineteen (19) to twenty-five (25)*** years ***of age who are full time students enrolled in and attending an accredited educational institution and who are primarily dependent on the policyholder for maintenance and support,*** and any other person dependent upon the policyholder as provided pursuant to KRS 304.17-310;

(4) The style, arrangement***,*** and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any indorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten (10) point with a lower case unspaced alphabet length not less than one hundred and twenty (120) point (the "text" shall include all printed matter except the name and address of the insurer, name on title of the policy, the brief description, if any, and captions and subcaptions);

(5) The exceptions and reductions of indemnity shall be set forth in the policy and other than those contained in KRS 304.17-050 to 304.17-290, inclusive, shall be printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions," or "Exceptions and Reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of ***the***[~~such~~] exception or reduction shall be included with the benefit provision to which it applies;

(6) Each[~~ such~~] form, including riders and indorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and

(7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution***,*** or bylaws of the insurer a part of the policy unless ***the***[~~such~~] portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the commissioner.

Section 19. KRS 304.17-060 is amended to read as follows:

(1) ***(a)*** There shall be a provision as follows:

"Time Limit on Certain Defenses: After three (3) years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for ***the***[~~such~~] policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of ***the***[~~such~~] three (3) year period."

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during ***the***[~~such~~] initial three (3) year period, nor to limit the application of KRS 304.17-190 to 304.17-230, inclusive, in the event of misstatement with respect to age or occupation or other insurance.)

A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (a) until at least age fifty (50) or (b) in the case of a policy issued after age forty-four (44) for at least five (5) years from its date of issue, may contain in lieu of the foregoing the following provision, from which the clause in parentheses may be omitted at the insurer's option, under the caption "Incontestable":

"After the policy has been in force for a period of three (3) years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application."

(b) No claim for loss incurred or disability as defined in the policy commencing after two (2) years from the date of issue of this policy, shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

(2) Paragraph (b) of subsection (1) of this section shall not apply to policies subject to KRS 304 Subtitle 17A.

Section 20. KRS 304.17-130 is amended to read as follows:

(1) There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting~~[such]~~ payment which may be prescribed herein and effective at the time of payment. If no~~[such]~~ designation or provision is then effective, ***any***~~[such]~~ indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to ***a***~~[such]~~ beneficiary or to ***the***~~[such]~~ estate. All other indemnities will be payable to the insured."

(2) The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

(a) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $.... (insert an amount which shall not exceed ***$5,000***~~[$1000]~~), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of ***the***~~[such]~~ payment."

(b) "Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of ***the***~~[such]~~ loss, be paid directly to the hospital or person rendering ~~[such]~~ services; but it is not required that the service be rendered by a particular hospital or person."

Section 21. KRS 304.17-310 is amended to read as follows:

(1) Family expense health insurance is that provided under a policy issued to one (1) of the family members insured, who shall be deemed the policyholder, covering any two (2) or more eligible members of a family, including husband, wife, ***unmarried*** dependent children, ***to age***~~[or any children under a specified age which shall not exceed]~~ nineteen (19)***,*** ***unmarried children from nineteen (19) to twenty-five (25)*** years ***of age who are full time students enrolled in and attending an accredited educational institution and who are primarily dependent on the policyholder for maintenance and support***, and any other person dependent upon the policyholder. Any authorized health insurer may issue ***the***~~[such]~~ insurance.

(2) An individual hospital or medical expense insurance policy or hospital or medical service plan contract delivered or issued for delivery in this state more than 120 days after June 13, 1968, which provides that coverage of a dependent child shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of ***the***~~[such]~~ limiting age shall not operate to terminate the coverage of ***the***~~[such]~~ child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical disability and (b) chiefly dependent upon the policyholder or subscriber for support and maintenance, provided proof of ***the***~~[such]~~ incapacity and dependency is furnished to the insurer or corporation by the policyholder or subscriber within thirty-one (31) days of the child's attainment of the limiting age and subsequently as may be required by the insurer or corporation but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

Section 22. KRS 304.18-127 is amended to read as follows:

(1) This section shall indicate the insurer responsible for liability in those instances in which one (1) insurer's group policy replaces the group policy of another insurer.

(2) The prior insurer shall remain liable only to the extent of its accrued liabilities, extensions of benefits, and for persons who are under continued group health insurance coverage pursuant to KRS 304.18-110 at the time the group policy terminates. The position of the prior insurer shall be the same whether the group policyholder secures replacement coverage from a new insurer, self insures, or forgoes the provision of a group policy, except that termination of continued group health insurance coverage shall occur in accordance with KRS 304.18-110.

(3) The liability of a succeeding insurer shall be as follows:

(a) Each person who is eligible for coverage in accordance with the succeeding insurer's plan of benefits, in respect to classes eligible, ***actively***[~~activity~~] at work, and nonconfinement rules, shall be covered by that insurer's plan of benefits.

(b) Each person not covered under the succeeding insurer's plan of benefits in accordance with paragraph (a) of this subsection shall nevertheless be covered by the succeeding insurer in accordance with the following provisions if the person was validly covered, including benefit extensions, under the prior insurer on the date of termination of the prior insurer's group policy and if the person is a member of the class or classes of persons eligible for coverage under the succeeding insurer's plan. Any reference in the following provisions to a person who was or was not totally disabled shall be a reference to that person's status immediately prior to the date the succeeding insurer's coverage becomes effective.

1. The minimum level of benefits to be provided by the succeeding insurer shall be the applicable level of benefits of the prior insurer's group policy reduced by any benefits payable by the prior insurer under its group policy.

2. Coverage shall be provided by the succeeding insurer until at least the earliest of the following dates:

a. The date the person becomes insured according to paragraph (a) of this subsection;

b. For each type of coverage, the date the person's coverage would terminate in accordance with the succeeding insurer's group policy provisions applicable to individual termination of coverage; or

c. In the case of a person who was totally disabled and the type of coverage is one for which KRS 304.18-126 requires an extension of accrued liability, the end of extension of accrued liability which is required of the prior insurer by KRS 304.18-126, or, if the prior insurer's group policy is not subject to KRS 304.18-126, would have been required of that insurer had its group policy been subject to KRS 304.18-126 at the time the prior insurer's group policy was discontinued and replaced by the succeeding insurer's plan.

(c) In the case of a pre-existing conditions limitation in the succeeding insurer's group policy, the level of benefits applicable to pre-existing conditions of persons becoming covered by the succeeding insurer's plan in accordance with this subsection during the period of time this limitation applies under the succeeding insurer's group policy shall be the lesser of:

1. The benefits of the succeeding insurer's group policy determined without application of the pre-existing conditions limitation; or

2. The benefits of the prior insurer's group policy.

(d) The succeeding insurer, in applying any deductibles or waiting periods in its plan, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under a prior group policy. In the case of deductible provisions, the credit shall apply for the same or overlapping benefit periods and shall be given for expenses actually incurred and applied against the deductible provisions of the prior insurer's group policy during the ninety (90) days preceding the effective date of the succeeding insurer's group policy, but only to the extent these expenses are recognized under the terms of the succeeding insurer's group policy and are subject to similar deductible provisions.

(e) If a determination of the prior insurer's benefit is required by the succeeding insurer, at the succeeding insurer's request the prior insurer shall furnish a statement of the benefits available or pertinent information sufficient to permit verification of the benefit determination or the determination itself by the succeeding insurer. For purposes of this section, benefits of the prior insurer's group policy shall be determined in accordance with all of the definitions, conditions, and covered expense provisions of the prior insurer's group policy rather than those of the succeeding insurer's group policy. The benefit determination shall be made as if coverage had not been replaced by the succeeding insurer.

Section 23. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

(a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others;

2. Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1,500) pounds or less which is not used in the occupation, profession, or business of the insured; provided, however, that this section shall not apply:

a. To any policy issued under an automobile assigned risk plan;

b. To any policy insuring more than four (4) automobiles; or

c. To any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards;

(b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits, and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, and automobile physical damage coverage;

(c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than three (3) months shall for the purpose of this section be considered as if written for a policy period or term of three (3) months. Provided, further, that any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and ***the***~~[such]~~ policy may be terminated at the expiration of any annual period upon giving seventy-five (75) days' notice of cancellation prior to ***the***~~[such]~~ anniversary date, and ***the***~~[such]~~ cancellation shall not be subject to any other provisions of this section; and

(d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of ***the***~~[such]~~ premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(2) (a) A notice of cancellation of a policy shall be effective only if it is based on one (1) or more of the following reasons:

1. Nonpayment of premium; or

2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date;

(b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy;

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy; and

(d) This subsection shall not apply to nonrenewal.

(3) No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least fourteen (14) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals.

(4) No insurer shall refuse to renew a policy of automobile insurance solely because of the age of the insured.

(5) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least seventy-five (75) days' advance notice of its intention not to renew.

(6) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of ***the***~~[such]~~ renewal.

(7) If the insurer has manifested its willingness to renew by mailing or delivering a renewal notice, bill, certificate, or policy to the first-named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date, unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first-named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist.

(8) (a) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date, shall constitute a presumption of receipt pursuant to subsection (7) of this section.

(b) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

(9) No insurer shall impose or request an additional premium higher than its standard premium for automobile insurance, cancel or refuse to issue a policy, or refuse to renew a policy solely because the insured or the applicant is an individual

with a disability, so long as the disability does not substantially impair the person's mechanically assisted driving ability.

(10) When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which subsection (5) of this section applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. ***The***[~~Such~~] notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. ***The***[~~Such~~] notice shall also inform the insured that he may, within four (4) days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Within fourteen (14) days of receiving such a written request, the commissioner shall send his findings to the insurer and to the insured. When he sends his findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b). The party requesting the hearing shall give the commissioner written confirmation of attendance at the hearing not more than ***five (5)***[~~four (4)~~] days before, nor less than ***forty-eight (48)***[~~twenty-four (24)~~] hours before, the scheduled hearing. If the requesting party fails to give the required written confirmation, the commissioner shall cancel the hearing.

(11) The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.

(12) Except where the maximum limits of coverage have been purchased, every notice of first renewal shall include a provision or be accompanied by a notice stating in substance that added uninsured motorists, underinsured motorists, and personal injury protection coverages may be purchased by the insured.

(13) There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person, or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written, specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

Section 24. KRS 304.24-040 is amended to read as follows:

(1) This section applies to stock, combined stock and mutual life, or mutual insurers hereafter incorporated in this state. Such an insurer may be formed for the purpose of transacting any kind or kinds of insurance, as well as annuity business.

(2) Incorporators. Three (3) or more individuals, none of whom is less than eighteen (18) years of age, may incorporate a stock insurer; ten (10) or more[~~ such~~] individuals may incorporate a mutual insurer. At least a majority of the incorporators must be citizens of the United States. At least a majority of the incorporators must be residents of Kentucky.

(3) Articles. The incorporators shall deposit the articles of incorporation, in quadruplicate originals, with the commissioner, and ***the***[~~such~~] articles shall not be filed with the Secretary of State until approved by the commissioner as provided in KRS 304.24-050, and the commissioner's approval has been stamped upon or otherwise attached to the articles. In addition to the applicable requirements of laws in this state governing the incorporation of business corporations generally:

(a) The name of the corporation, which shall be subject to KRS ***304.3-100***[~~304.3-010~~], shall contain the words "insurance company;" if a mutual, or a combined stock and mutual, the word "mutual" must be a part of the name.

(b) The articles of incorporation shall specify the kind or kinds of insurance proposed to be transacted.

(c) Each share of capital stock shall have a par value of not less than $1.00.

(d) If a mutual, or a combined stock and mutual life, the articles of incorporation shall state the maximum contingent liability of its participating policyholder members, other than as to nonassessable policies, for payment of losses and expenses incurred. Such liability shall be as stated in the articles of incorporation, but shall not be less than one (1) or more than six (6) times the premium for member's policy at the annual premium rate for a term of one (1) year.

(e) The names and residence addresses of the incorporators.

(4) Unless otherwise provided in the articles of incorporation or an amendment thereto, each stockholder of a combined stock and mutual life insurance company shall, at all meetings, be entitled to one (1) vote for each share of common stock held by him, and each holder of a policy entitled to participate in profits or savings shall be a member and, as such, shall be entitled to vote on the same basis to which he would be entitled in a mutual company under KRS 304.24-210.

Section 25. KRS 304.29-261 is amended to read as follows:

(1) Every society transacting business in this state shall annually, on or before the first day of March, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay ***the***[~~a~~] fee ***required under Section 8 of this Act***[~~of ten dollars ($10)~~] for filing it. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

(2) As part of the annual statement, each society shall, on or before the first day of March, file with the commissioner a valuation of its certificates in force on December 31 last preceding. The commissioner may, in his discretion for cause shown, extend the time for filing the valuation for not more than two (2) calendar months. The valuation shall be done in accordance with the standards specified in KRS 304.29-251. The valuation and underlying data shall be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(3) A society failing to file the annual statement in the form and within the time provided by this section shall forfeit one hundred dollars ($100) for each day during which the default continues; and, upon notice by the commissioner, its authority to do business in this state shall cease while the default continues.

(4) Each society authorized to transact business in this state pursuant to this subtitle shall comply with KRS 304.2-205.

Section 26. KRS 304.30-040 is amended to read as follows:

(1) Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and shall issue a license if the applicant is qualified in accordance with this subtitle. If the commissioner does not so find, he shall, within ***sixty (60)***[~~thirty (30)~~] days after he has received the application, at the request of the applicant, give the applicant an administrative hearing. Hearings under this subtitle shall be conducted in accordance with KRS Chapter 13B.

(2) The commissioner shall issue or renew a license as may be applied for when he is satisfied that the person to be licensed:

(a) Is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(b) Has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for; and

(c) If a corporation, is a corporation incorporated under the laws of this state or a foreign corporation authorized to transact business in this state.

Section 27. KRS 304.37-110 is amended to read as follows:

(1) Any domestic insurer, either by itself or in cooperation with one (1) or more persons, may organize or acquire one (1) or more subsidiaries engaged in the following kinds of business:

(a) Any kind of insurance business authorized by the jurisdiction in which it is incorporated;

(b) Acting as an insurance agent for its parent or any of its parent's insurer subsidiaries;

(c) Investing, reinvesting, or trading in securities for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(d) Management of any investment company subject to or registered pursuant to the Investment Company Act of 1940, as amended, including related sales and services;

(e) Acting as a broker-dealer subject to or registered pursuant to the Securities Exchange Act of 1934, as amended;

(f) Rendering investment advice to governments, government agencies, corporations, or other organizations or groups;

(g) Rendering other services related to the operations of an insurance business, such as actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal, and collection services;

(h) Ownership and management of assets which the parent corporation may own or manage if the aggregate investment by the insurer and its subsidiaries acquired or organized pursuant to this paragraph shall not exceed the limitations applicable to these investments by the insurer. This paragraph shall not prohibit investments permitted under KRS 304.7-120;

(i) Acting as an administrative agent for a governmental instrumentality which is performing an insurance function;

(j) Financing of insurance premiums, agents, and other forms of consumer financing;

(k) Any other business activity determined by the commissioner to be reasonably ancillary to an insurance business; and

(l) Owning a corporation or corporations engaged or organized to engage exclusively in one (1) or more businesses specified in this section.

(2) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under this chapter, a domestic insurer may also:

(a) Invest, in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiaries, amounts which do not exceed the lesser of ten percent (10%) of the insurer's assets or fifty percent (50%) of the insurer's surplus as regards policyholders, if after these investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs. In calculating the amount of these investments, investments in domestic or foreign insurance subsidiaries shall be excluded, and there shall be included:

1. Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and
2. All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation;

(b) Invest any amount in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer, if each subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in paragraph (a) of this subsection or in KRS Chapter 304.7. For the purpose of this paragraph, "the total investment of the insurer" shall ***include***[~~exclude~~]:

1. Any direct investment by the insurer in an asset; and
2. The insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary;

(c) With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one (1) or more subsidiaries, if after the investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(3) Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subsection (2) of this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in this chapter applicable to the investments of insurers.

(4) Whether any investment pursuant to subsection (2) of this section meets the requirements shall be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, not including dividends.

(5) If an insurer ceases to control a subsidiary, it shall dispose of any investment made pursuant to this section within three (3) years of the time of the cessation of control, or within an extension of time as the commissioner may prescribe, unless at any time after the investment has been made, the investment has met the requirements for investment under any other provision of this chapter, and the insurer has notified the commissioner.

Section 28. KRS 304.38-090 is amended to read as follows:

Organizations subject to the provisions of this subtitle shall make and file with the commissioner and the Kentucky Certificate of Need and Licensure Board ***annually before March 1 of each***[~~within ninety (90) days from the end of the organization's fiscal~~] year, a statement under oath upon a form to be prescribed by the commissioner covering the preceding year, and shall include (a) a financial statement of the organization, including a balance sheet, receipts and disbursements for the preceding year; (b) the number of persons enrolled during the year, the number of enrollees as of the end of the year, the number of enrollments terminated during the year, and ***any***[~~such~~] other information relating to the operation of the health maintenance organization as may be prescribed by the commissioner in order to enable the commissioner to evaluate the performance of the health maintenance organization.

Section 29. KRS 304.43-030 is amended to read as follows:

(1) No prepaid dental plan organization shall deliver or issue for delivery in this state any contract describing dental care services available, or any endorsement, rider, or application which becomes a part thereof or any amendment thereto or modification thereof, until a copy of ***the***[~~such~~] form or contract or certificate and the schedule of fees or other periodic charges to be paid by the enrollees, has been filed with and approved by the commissioner. Each form, contract***,*** or certificate must contain a complete and clear statement of:

(a) The dental care services to which the enrollee is entitled;

(b) Any limitations on the services, benefits, deductible***,*** or copayments features;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of the dental care services.

(2) At the expiration of ***sixty (60)***[~~thirty (30)~~] days, the form or contract so filed shall be deemed approved unless it has been previously approved or disapproved by order of the commissioner. The commissioner may withdraw approval at any time with cause.

Section 30. KRS 304.44-010 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Department" means the Department of Insurance;

(2) "Mine subsidence" means the collapse of underground coal mines resulting in direct damage to a structure. It does not include loss caused by earthquake, landslide, ***water seepage,*** volcanic eruption, or collapse of storm,[~~ water seepage,~~] and sewer drains;

(3) "Mine subsidence insurance fund" or "fund" means the fund established by this subtitle and administered as determined by the department;

(4) "Policy" means a contract of insurance providing mine subsidence insurance;

(5) "Premium" means the gross rate charged policyholders for insurance provided by this subtitle;

(6) "Structure" means any dwelling, building, or fixture permanently affixed to realty, but does not include land, trees, plants, or crops; and

(7) "Administrator" means the organization designated by the commissioner of the department to administer the fund.

Section 31. KRS 304.44-030 is amended to read as follows:

After July 15, 1984, every insurance policy issued or renewed insuring on a direct basis a structure located in a county or portion of a county in this state except for counties exempted pursuant to KRS 304.44-060 shall include, at a separately stated premium, insurance for loss occurring after July 15, 1984, caused by mine subsidence unless waived in writing by the insured. The premium charged for coverage shall be the same as the premium level set by the administrator. The loss coverage shall be the loss in excess of two percent (2%) of the policy's total insured value, but at no time shall the deductible be less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500). The total insured value reinsured by the administrator shall not exceed ***one hundred thousand***[~~fifty thousand~~] dollars ***($100,000)***[~~($50,000)~~] per structure. The insurer shall not be required to write a policy for mine subsidence coverage in excess of the amount reimbursable from the fund as authorized by this subtitle.

Section 32. KRS 304.44-050 is amended to read as follows:

All insurers writing property insurance covering structures in this state shall enter into a reinsurance agreement with the administrator in which each insurer agrees to cede to the administrator one hundred percent (100%), up to ***one hundred thousand***[~~fifty thousand~~] dollars ***($100,000)***[~~($50,000)~~], of any subsidence insurance coverage issued and, in consideration of the ceding commission retained by the insurer, agrees to undertake adjustment of losses, and payment of taxes, and to absorb all other expenses of the insurer necessary for sale of policies and administration of the mine subsidence insurance program. The administrator shall agree to reimburse the insurer from the fund for all amounts paid policyholders for claims resulting from subsidence and shall pay from the fund all costs of administration incurred by the administrator, but an insurer is not required to pay any claim for any loss insured under this subtitle except to the extent that the amount available in the mine subsidence insurance fund is sufficient to reimburse the insurer for such claim. Claims made under the provisions of the subtitle shall not be deemed to constitute a debt, liability, or obligation of the Commonwealth or any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or any[~~ such~~] political subdivision except to the extent the fund has accumulated reserves from premiums, state or federal grants, investment income, or state appropriations.

Section 33. KRS 56.080 is amended to read as follows:

Before July 1 of each year, the Department of Insurance shall reconsider its appraisal and valuation of public buildings and personal property belonging to or under the control and use of the state or any state agency, and shall certify any changes in value to the agency that has the custody or control of the property. The appraisal and valuation shall equal the amount that the Department of Insurance deems necessary to replace the property at the time of the appraisal, ***which may be*** less actual depreciation.

SECTION 34. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All policy forms filed with the department, and any other insurance policy or claim related information, shall be written in the English language. This section shall not prohibit an insurer from advertising or providing information or translations to consumers in a language other than English, if the advertisement or informational materials clearly state the insurance policy being advertised is available only in English. However, if there is a dispute, the insurance policy is controlling and any advertisements or informational materials used by an insurer shall not be construed to modify or change the insurance policy.

Section 35. The following KRS sections are repealed:

304.39-350 Commissioner's report on total payments made by insurers for personal injury accidents.

304.3-245 Closed claim information -- Reporting of information -- Report of commissioner.

HB 527, AN ACT relating to the Kentucky Employers' Mutual Insurance Authority Board Members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.809 is amended to read as follows:

(1) The board shall elect a chair and other officers it deems necessary from its members. The Governor shall make the initial appointments to the board as follows: three (3) members shall be appointed to terms that expire December 31, 1995, and four (4) members shall be appointed to terms that expire December 31, 1997. Subsequent members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.

(2) Senate confirmation of the Governor's appointees is required in accordance with the provisions of KRS 11.160. If a member is not confirmed by the Senate, the Governor, within thirty (30) days of the rejection, shall make another appointment. That member shall serve the remainder of the term in question and shall also be subject to confirmation should the term extend until the next regular session, or a special session which includes this subject on the call, whichever occurs earlier.

(3) Four (4) voting members shall constitute a quorum. The board shall meet at least quarterly.

(4) ***On the effective date of this Act,*** each voting member shall be compensated ***eight***[~~five~~] thousand ***five hundred*** dollars ***($8,500)***[~~($5,000)~~] annually, ***and beginning on July 15, 1999, twelve***[~~except the chair, who shall be paid seven~~] thousand[~~ five hundred~~] dollars ***($12,000)***[~~($7,500)~~] ***annually***. In addition, the voting members of the board shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated by the Cabinet for Finance and Administration for state employees.

(5) The ex officio nonvoting members of the board shall be: the secretary of the Finance and Administration Cabinet, the commissioner of the Department of Personnel, and the commissioner of the Department of Insurance.

(6) A voting board member may be removed for cause by the board. Cause shall include, but not be limited to, incompetence or misconduct defined in policies or bylaws formulated by the board and adopted by the policyholders.

HB 650, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky. The department shall provide appropriate insurance information to the Department of Information Systems for inclusion in the AVIS database.

(2) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, the department shall immediately notify the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the department or the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall ***revoke the registration of the motor vehicle***[~~suspend the operator's license of all persons listed on the certificate of title pursuant to KRS 186.570~~]until:

(a) The person presents proof of insurance to the department or county clerk and pays the reinstatement fee required by ***Section 2 of this Act***[~~KRS 186.440 and the relicensing fee required by KRS 186.450~~];

(b) The person presents proof in the form of an affidavit stating under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

(c) The person presents proof in the form of an affidavit stating under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

(d) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires ***a registered motor vehicle***[~~an operator's license~~] in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has ***his or her motor vehicle registration revoked in accordance with***[~~an operator's license suspended, pursuant to~~] this subsection, three (3) times within any twelve (12) month period, the ***revocations***[~~suspensions~~] shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(3) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by subsection (2) of this section. The notice that the department gives to the county attorney ***in accordance with***[~~pursuant to~~] subsection (2) of this section shall include a certified copy of the person's driving record which shall include:

(a) The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

(b) A dated notice that the department sent to the person requiring the person to present proof of insurance to the department or the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had ***his or her motor vehicle registration revoked***~~[an operator's license suspended]~~ three (3) times within any twelve (12) month period ***in accordance with***~~[pursuant to]~~ subsection (2) of this section.

(4) The certified copies sent by the department described in subsection (3) of this section, shall be prima facie evidence of a violation of KRS 304.39-080.

(5) If the insured provides proof of insurance to the department or the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

Section 2. KRS 186.180 is amended to read as follows:

(1) (a) If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.

(2) If the owner loses a registration plate, he shall surrender his registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars ($3) for each plate and a fee of three dollars ($3) to the clerk for his services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.

(3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars ($5) of which the clerk shall be entitled to three dollars ($3) and the cabinet shall be entitled to two dollars ($2).

(4) If the owner's registration is suspended as a result of the provisions set forth in Section 1 of this Act, the owner may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with Section 3 of this Act and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of fifteen dollars ($15).

Section 3. KRS 304.39-080 is amended to read as follows:

(1) "Security covering the vehicle" is the insurance or other security so provided. The vehicle for which the security is so provided is the "secured vehicle."

(2) "Basic reparation insurance" includes a contract, self-insurance, or other legal means under which the obligation to pay basic reparation benefits arises.

(3) This Commonwealth, its political subdivisions, municipal corporations, and public agencies may continuously provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(4) The United States and its public agencies and any other state, its political subdivisions, municipal corporation, and

public agencies may provide, pursuant to subsection (6), security for the payment of basic reparation benefits in accordance with this subtitle for injury arising from maintenance or use of motor vehicles owned by those entities and operated with their permission.

(5) Except for entities described in subsections (3) and (4), every owner of a motor vehicle registered in this Commonwealth or operated in this Commonwealth by him or with his permission, shall continuously provide with respect to the motor vehicle while it is either present or registered in this Commonwealth, and any other person may provide with respect to any motor vehicle, by a contract of insurance or by qualifying as a self-insurer, security for the payment of basic reparation benefits in accordance with this subtitle and security for payment of tort liabilities, arising from maintenance or use of the motor vehicle. The owner of a motor vehicle who fails to maintain security on a motor vehicle ***in accordance with***[~~pursuant to~~] this subsection shall have his or her ***motor vehicle registration revoked in accordance with***[~~operator's license suspended pursuant to~~] KRS 186A.040.

(6) Security may be provided by a contract of insurance or by qualifying as a self-insurer or obligated government in compliance with this subtitle.

(7) Self-insurance, subject to approval of the commissioner of insurance, is effected by filing with the commissioner in satisfactory form:

(a) A continuing undertaking by the owner or other appropriate person to pay tort liabilities or basic reparation benefits, or both, and to perform all other obligations imposed by this subtitle;

(b) Evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided by this subtitle; and

(c) Evidence that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a policy of insurance, complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

(8) An entity described in subsection (3) or (4) may provide security by lawfully obligating itself to pay basic reparation benefits in accordance with this subtitle; and

(9) A person providing security pursuant to subsection (7) is a "self-insurer." An entity described in subsections (3) or (4) that has provided security pursuant to subsection (6) is an "obligated government."

Section 4. KRS 304.39-090 is amended to read as follows:

An owner of a motor vehicle registered in this Commonwealth who ceases to maintain security as required by the provisions on security may not operate or permit operation of the vehicle in this Commonwealth until security has again been provided as required by this subtitle. An owner who fails to maintain security as required by this subtitle shall have his or her ***motor vehicle registration revoked in accordance with***[~~operator's license suspended pursuant to~~] KRS 186A.040. All other owners shall provide such security while operating a motor vehicle in this Commonwealth.

Section 5. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16);

(2) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;

(3) Any person whose operator's license has been suspended, during the period of suspension;

(4) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;

(5) Any applicant adjudged incompetent by judicial decree;

(6) Any person who in the opinion of the State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;

(7) Any person who is unable to understand highway warnings or direction signs in the English language;

(8) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;

(9) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;

(10) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;

(11) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or

(12) Any person whose operator's license has been suspended or revoked under the provisions of~~[KRS 186A.040 for failure to maintain motor vehicle insurance, or of]~~ KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars ($15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars ($5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars ($10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his license revoked pursuant to KRS 159.051.

Section 6. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists. The non-state government members of the Medical Review Board shall be paid a fee of one hundred dollars ($100) per day plus reasonable expenses for performing this service.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

~~[(j) That person has failed to provide proof of motor vehicle security pursuant to KRS 186A.040.]~~

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Human Resources that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, or payments on the child support arrearage are being made in accordance with a court or administrative order. Before the license may be reinstated, proof of elimination of the child support arrearage from the Cabinet for Human Resources shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Human Resources and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(4) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in

another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(5) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(6) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(7) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 7. KRS 186A.035 is amended to read as follows:

(1) All motor vehicles, including motorcycles, with a gross vehicular weight of six thousand (6,000) pounds or less, first registered, or for which the registration is renewed in this state on or after January 1, 1983, shall be placed in a system of year-round registration based upon the birth month of the owner, in order to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve (12) months of the year.

(2) If the owner of a motor vehicle is other than an individual, the month in which the owning entity came into being shall be used for purposes of this section. If a motor vehicle is jointly owned, the owners shall indicate to the county clerk the birth month of one (1) of them to be used for purposes of this section. In addition, if a motor vehicle is jointly owned by a husband and wife, the ownership shall exist as a joint tenancy with right of survivorship, unless the registration expressly states to the contrary and gives an alternative specific status. Upon the death of one (1) of the spouses, the jointly-owned vehicle shall transfer to the surviving spouse free from payment of any state-required transferral fees.

(3) The certificate of registration and license plate issued for a motor vehicle first registered, renewed, or titled in this state on or after January 1, 1983, shall be valid, unless ***revoked in accordance with Section 1 of this Act or*** canceled by the cabinet in accordance with KRS Chapter 186 or this chapter, upon payment of the required fee, for a period beginning on the first day of the month of the year in which registration is applied for, and expiring on the last day of the next birth month of the owner following the month during which registration is applied for. Upon the owner's request, and after payment of the proper prorated fee, an owner may obtain a certificate of registration and license plate valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration. Any transaction relating to registration or registration renewal which would cause an unexpired Kentucky motor vehicle license plate to be surrendered shall have that unexpired fee prorated or credited against any additional fee required by a subsequent registration.

(4) After a motor vehicle has been initially placed in the system of year-round registration, the owner shall renew the registration annually during the owner's birth month, by making application to the county clerk and paying the fee required for twelve (12) consecutive months of registration, which shall take effect on the first day of the month succeeding the owner's birth month and shall expire on the last day of the owner's next birth month. The county clerk shall be entitled to a registration fee of two dollars ($2) for each registration, or if the registration exceeds a twelve (12) month period the clerk shall receive a fee of three dollars ($3).

(5) At least forty-five (45) days prior to the expiration of the registration of any motor vehicle previously registered in the Commonwealth as provided by subsection (1) of this section, the owner of the vehicle shall be notified by mail on the same notice required by KRS 134.805(5) of the date of expiration. Any registration renewal or vehicle transfer notice by mail shall require payment of an additional one dollar ($1) fee which shall be received by the county clerk. Nonreceipt of the notice required by this subsection shall not constitute a defense to any registration related offense.

(6) Any owner who fails to renew the registration of a motor vehicle during the month in which the previous registration expired, shall, if he applies for renewal of the registration in some later month, pay the same fees that would have been required if the registration had been renewed in the month which the previous registration expired.

(7) Fees which must be prorated in carrying out the intent of this section shall be prorated on the basis of twelfths of the annual registration fee. Any vehicle which is registered at any time during a month shall pay the fee required for that whole month plus any additional months of registration purchased consistent with the intent of the section.

(8) The county clerk shall ensure that the certificate of registration issued to an owner displays the month and year in which the registration period begins and the month and year of its expiration, and shall issue to the owner a decal or decals corresponding to the month and year of expiration shown in the certificate of registration which shall be placed upon the corresponding license plate by the owner in the manner required by administrative regulations of the Department of

Vehicle Regulation.

Section 8. KRS 304.99-060 is amended to read as follows:

(1) The owner or operator of any vehicle who fails to have in full force and effect the security required by Subtitle 39 of this chapter shall:

  (a) Be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or sentenced to not more than ninety (90) days in jail, or both;

  (b) Have the ***registration of the motor vehicle revoked and the*** license plates of the vehicle suspended for a period of one (1) year or until such time as proof, in a form satisfactory to the commissioner, is furnished that the security is then and will remain in effect; and

  (c) For the second and each subsequent offense within any five (5) year period, have his operator's license revoked in accordance with KRS 186.560, and may be sentenced to one hundred and eighty (180) days in jail, or fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500), or both.

(2) Penalties under subsection (1) of this section for the first offense are subject to conditional discharge, suspension, or other forms of reduction of penalty by judicial discretion upon production of proof of security.

(3) For the second and each subsequent offense, minimum fines, suspensions, and penalties under subsection (1) of this section are subject to conditional discharge, suspension, or other forms of reduction of penalty, by judicial discretion only upon production of proof of security and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(4) Upon expiration of the minimum six (6) month policy period, the court shall order the vehicle owner to appear before it to verify renewal of the security required by Subtitle 39 of this chapter by production of proof of security and a receipt showing that a premium for a minimum six (6) month policy period has been paid.

(5) Failure to appear shall result in the suspension of the vehicle owner's operator's license pursuant to KRS 186.570.

(6) Unless uninterrupted coverage is maintained, cancellation or expiration of the procured security before the end of the minimum six (6) month policy period shall be a Class B misdemeanor.

(7) Unless the requirement of subsection (4) of this section is satisfied, the court shall revoke any conditional discharge, suspension, or other form of reduction of penalty granted under subsection (3) of this section.

The Committee Amendment No. 1 to **HB 650** is as follows:

On page 4, line 26 after "***is***" by adding "***revoked***" and by deleting the word "***suspended***";

On page 4, line 27 after "***may***" by adding "***have his registration reinstated by***" and by deleting "***obtain a duplicate from***"; and

On page 5, line 4 before "***fifteen***" by inserting "***twenty***", and by deleting "***fifteen***", and after "***dollars***" by adding "***($20)***", and by deleting "***($15)***", and after "***($15)***" by adding "***, which shall be equally divided between the county clerk and the cabinet***".

HB 676, AN ACT relating to title pledge lenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 16 of this Act, unless the context requires otherwise:

(1) "Capital" means the assets of a business entity less the liabilities of that business entity. Assets and liabilities shall be measured according to generally accepted accounting principles or relevant pronouncements of the financial accounting standards board;

(2) "Department" means the Department of Financial Institutions;

(3) "Person" means any sole proprietorship, general partnership, corporation, limited liability company, or limited liability partnership duly qualified to do business in Kentucky;

(4) "Pledgor" means any individual who executes a title pledge agreement as defined in subsection (5) of this section;

(5) "Title pledge agreement" means a thirty (30) day written agreement whereby a title pledge lender agrees to make a loan of money to a pledgor, and the pledgor agrees to give the title pledge lender a security interest in unencumbered titled personal property owned by the pledgor, subject to the terms and conditions of this chapter. A pledgor shall have no personal liability on a title pledge agreement and a title pledge agreement shall not be considered a debt transaction for any purpose of law;

(6) "Title pledge lender" means any person engaged in the business of making title pledge agreements;

(7) "Title pledge office" means the location at which, or premises in which, a title pledge lender regularly conducts business; and

(8) "Titled personal property" means any personal property the ownership of which is evidenced and delineated by a state issued certificate of title.

SECTION 2. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

A title pledge lender licensed under this chapter has the authority to make loans of money on pledges of titled personal property in accordance with the provisions of Sections 1 to 16 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

No person shall engage in the business of a title pledge lender without having first obtained a license. Any person engaged in the business of title pledge lending on the effective date of this Act may continue to engage in the business without a license until the commissioner shall have acted upon that person's application for a license if the application is filed within sixty (60) days after the effective date of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

To qualify for a license, an applicant shall apply to the department and satisfy the following requirements:

(1) Be operating as a sole proprietorship, general partnership, limited liability partnership, corporation, or limited liability company duly qualified to do business in Kentucky;

(2) Demonstrate the existence of initial capital of and the maintenance of, at least one hundred thousand dollars ($100,000) for the security of each of the applicant's licensed title pledge offices in Kentucky;

(3) Demonstrate the existence of a bond, with approved surety, in the amount of one hundred thousand dollars ($100,000) for the security of each of the applicant's licensed title pledge offices in Kentucky; and

(4) The financial responsibility, financial condition, business experience, character, and general fitness of the applicant shall reasonably warrant the belief that the applicant's business will be conducted honestly, carefully, and efficiently. In determining whether this qualification has been met, the commissioner may review and approve:

  (a) The business records and the capital adequacy of the applicant;

  (b) The competence, experience, integrity, and financial ability of any person who is a director, officer, supervisory employee, or five percent (5%) or more shareholder of the applicant, or owns or controls the applicant; and

  (c) Any record, on the part of the applicant or any person referred to in paragraph (b) of this subsection of:

    1. Any criminal activity;

    2. Any fraud or other act of personal dishonesty;

    3. Any act, omission, or practice which constitutes a breach of a fiduciary duty; or

    4. Any suspension or removal, by any agency or department of the United States or any state, from participation in the conduct of any business.

SECTION 5. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

Each application for a license shall be in writing and under oath to the department in a form prescribed by the commissioner and shall include the following:

(1) The legal name, residence, and business address of the applicant and, if the applicant is other than a sole proprietorship, of every member, officer, and director thereof;

(2) The location at which the initial registered office of the applicant shall be located in this Commonwealth;

(3) The complete address of any locations at which the applicant proposes to engage in the business of title pledge lending; and

(4) Other data and information the department may require with respect to the applicant, its directors, trustees, officers, members, or agents.

SECTION 6. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

Each application for a license shall be accompanied by:

(1) An investigation fee of five hundred dollars ($500) for each location, which shall not be subject to refund, but which, if the license is granted, shall constitute the license fee for the first license year or part thereof;

(2) Evidence of the capital and surety bond requirements of Section 4 of this Act;

(3) Audited financial statements prescribed by the commissioner; and

(4) Evidence that the applicant has complied or will comply with all workers' and unemployment compensation laws of

Kentucky.

SECTION 7. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Upon the filing of an application in a form prescribed by the commissioner, accompanied by the fee and documents required in Section 6 of this Act, the department shall investigate to ascertain whether the qualifications prescribed by Section 5 of this Act have been satisfied. If the commissioner finds that the qualifications have been satisfied and approves the documents, the commissioner shall issue to the applicant a license to engage in the business of title pledge lending in Kentucky.

(2) The license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable.

(3) A license issued under this section shall remain in force and effect through the remainder of the fiscal year ending June 30 following its date of issuance, unless earlier surrendered, suspended, or revoked.

(4) A licensee shall notify the department fifteen (15) business days before any change in the licensee's business location or name.

SECTION 8. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

Each license may be renewed for the ensuing twelve (12) month period upon the payment of an annual licensee fee of five hundred dollars ($500) to the department on or before July 1 of each year.

SECTION 9. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) The department may promulgate reasonable administrative regulations for the administration of Sections 1 to 16 of this Act.

(2) To assure compliance with the provisions of Section 1 to 16 of this Act, the department may examine the business, books, and records of any licensee, and each licensee shall pay an examination fee sufficient to cover the cost of the examination based upon fair compensation for time and actual expense as established by administrative regulations of the department.

SECTION 10. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Each licensee shall keep and use in its business any books, accounts, and records the department may require to carry into effect the provisions of Sections 1 to 16 of this Act and the administrative regulations promulgated under those sections. Every licensee shall preserve the books, accounts, and records for at least two (2) years.

(2) No licensee shall indicate through advertising, signs, billboard, handbills, or otherwise that title pledge loans will be made without identification of the individual seeking the title pledge loan. Any individual seeking a title pledge loan shall be required to submit reasonable identification as prescribed by the department.

SECTION 11. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) All title pledge loans shall be for thirty (30) day periods but may be extended or continued for additional thirty (30) day periods.

(2) A title pledge lender shall not lease back to the pledgor any motor vehicle during a title pledge loan period or during any extension or continuation of the title loan period.

(3) During the first sixty (60) days of any title pledge loan transaction or extension or continuation, a title pledge lender shall not charge an interest rate of more than twenty percent (20%) of the principal amount advanced for each thirty (30) day period.

(4) On any title pledge loan transaction which is extended or continued beyond sixty (60) days, a title pledge lender shall not charge an interest rate of more than ten percent (10%) of the principal amount advanced for each thirty (30) day period.

(5) No other charge or fee of any kind by whatever name denominated, including but not limited to any storage fee, repossession fee, or shipping fee shall be imposed except as set out in subsections (3) and (4) of this section and Sections 12 and 13 of this Act.

(6) (a) Any interest, fees, or charges collected which are unauthorized, undisclosed, improperly disclosed, or in excess of that allowed by subsections (3) and (4) of this section and Sections 12 and 13 of this Act may be recovered by the pledgor in an action at law in a court of appropriate jurisdiction.

(b) In an action in which the pledgor prevails, the court shall also award reasonable attorneys' fees, court costs, and any expenses of litigation to the pledgor.

(c) Before filing an action under paragraph (a) of this subsection, the pledgor shall provide the title pledge lender with a written notice by certified mail, return receipt requested, that an action is contemplated, identifying any charges which the pledgor contends are unauthorized, undisclosed, improperly disclosed, or in excess of that allowed by subsections (3) and (4) of this section and Sections 12 and 13 of this Act. If the

court finds that during the thirty (30) days following receipt of this notice the titled pledge lender made a good faith offer to return any unauthorized, undisclosed, improperly disclosed, or any excess charges, the court shall award reasonable attorneys' fees, court costs, and expenses of litigation to the title pledge lender.

(d) No action shall be brought under paragraph (a) of this subsection more than two (2) years after the pledgor knew or should have known of the unauthorized, undisclosed, improperly disclosed, or excess charges.

(7) Any interest, charges, or fees contracted for or received, directly or indirectly, in excess of the amounts permitted under subsections (3) and (4) of this section and Sections 12 and 13 of this Act shall be uncollectable and the title pledge transaction shall be void. All interest allowed under subsections (3) and (4) of this section and Sections 12 and 13 of this Act shall be deemed earned, due, and owing as of the date of the title pledge lending transaction.

SECTION 12. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) A title pledge lender shall present the pledgor with a written disclosure or statement in at least nine (9) point type, appropriately completed, and with no other written or pictorial matter except as provided in subsection (2) of this section, containing the following information:

(a) Information identifying the name and address of the title pledge lender;

(b) A statement as follows: "This is a title pledge lending transaction. Failure to make your payments as described in this document can result in the loss of your titled personal property such as your motor vehicle. The title pledge lender can repossess titled personal property such as your motor vehicle.";

(c) A statement that the length of the title pledge lending transaction is thirty (30) days and that it can only be renewed with the agreement of both parties and only for thirty (30) day incremental periods;

(d) The annual percentage rate, computed in accordance with the Federal Truth in Lending Act, 15 U.S.C. sec. 1601 et seq., and regulations under the Federal Truth in Lending Act, 15 U.S.C. sec. 1601 et seq., for the first thirty (30) days of the transaction, computed as if all charges, fees, and interest were considered to be interest;

(e) The annual percentage rate, computed in accordance with the Federal Truth in Lending Act, 15 U.S.C. sec. 1601 et seq., and regulations under the Federal Truth in Lending Act, 15 U.S.C. sec. 1601 et seq., for each thirty (30) day period in which the title pledge lending transaction might be continued or extended, computed as if all charges, fees, and interest were considered to be interest. For purposes of identifying the annual percentage rate after the second continuation or extension, a single statement that identifies an annual percentage rate for each possible thirty (30) day period thereafter shall meet the requirements of this section;

(f) A statement in dollar amounts of how much it will cost the pledgor to redeem the pledged titled personal property in the first thirty (30) day period of the transaction;

(g) A statement in dollar amounts of how much it will cost the pledgor to redeem the pledged titled personal property in any thirty (30) day period after the first thirty (30) day period of the title pledge lending transaction;

(h) A statement of the specific maturity date of the title pledge lending transaction;

(i) A statement of the length of the grace period, regarding when the pledged titled personal property may be redeemed after the specific maturity date and the dollar amount which will be required to redeem the pledged titled personal property after the specific maturity date;

(j) A statement that after the grace period the pledged titled personal property will become the property of the title pledge lender;

(k) A statement that the title pledge lender may not charge a storage fee for any motor vehicle unless the title pledge lender repossesses the motor vehicle as a result of a default;

(l) A statement that the title pledge lender may charge a storage fee, not to exceed three dollars ($3) per day, but only if the title pledge lender actually repossesses and actually must store the motor vehicle;

(m) A statement that the title pledge lender may charge a repossession fee, not to exceed twenty-five dollars ($25), but only if the title pledge lender actually repossesses the motor vehicle; and

(n) A statement that the title pledge lender may charge a fee to register a lien upon the motor vehicle certificate of title, not to exceed any fee actually charged by the appropriate state to register a lien upon a motor vehicle certificate of title, but only if the title pledge lender actually places a lien upon the motor vehicle certificate of title.

(2) In addition to the information required by subsection (1) of this section, the title pledge lender may, but is not required to, include the following information on the same disclosure statement, provided that the information is not used to obscure or obfuscate the information required by subsection (1) of this section:

(a) Information identifying the pledgor;

(b) Any logo that the title pledge lender may desire to use;

(c) Any numbers or characters necessary for the title pledge lender to identify the pledged titled personal property associated with the title pledge lending transaction;

(d) Any other information required to be disclosed to consumers by any other law, rule, or regulation of the United States or of the Commonwealth of Kentucky;

(e) Information identifying or describing the pledged titled personal property;

(f) Information that is only for the internal business use of the title pledge lender;

(g) The hours of operation of the title pledge lender; and

(h) The time of day of the title pledge lending transaction.

(3) The title pledge lender shall have the pledgor sign the disclosure statement and shall furnish a completed copy to the pledgor. The titled pledge lender shall maintain a completed and signed copy of the disclosure statement on file for two (2) years subsequent to the maturity date of the title pledge lending transaction. Failure to maintain a copy shall be conclusive proof that the title pledge lender did not furnish a statement to the pledgor.

SECTION 13. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) There shall be a grace period on all title pledge lending transactions. On transactions involving titled personal property, including motor vehicle certificates of title, the grace period shall be thirty (30) days. In the event that the last day of the grace period falls on a day on which the title pledge lender is not open for business, the grace period shall be extended through the first day the title pledge lender is open for business. The title pledge lender shall not sell the pledged titled personal property during the grace period.

(2) By agreement of the parties, the maturity date of the title pledge lending transaction may be extended or continued for thirty (30) day periods, provided that the interest rates and charges as specified in subsections (3) and (4) of Section 8 and Section 12 of this Act and this section are not exceeded. The grace period shall begin running on the first day following the maturity date of the title pledge lending transaction or on the first day following the expiration of any extension or continuation of the title pledge lending transaction, whichever occurs later. All extensions or continuations of the title pledge lending transaction shall be evidenced in writing and a copy given to the pledgor.

(3) Pledged titled personal property may be redeemed by the pledgor within the grace period by the payment of any unpaid accrued fees and charges, the repayment of the principal, and the payment of any additional interest charge not to exceed ten percent (10%) of the principal. Pledged titled personal property not redeemed within the grace period shall be automatically forfeited to the title pledge lender by operation of this section, and any ownership interest of the pledgor shall automatically be extinguished as regards the pledged titled personal property.

(4) Following the expiration of the grace period, the title pledge lender shall have a period of sixty (60) days to sell, in a commercially reasonable manner, the pledged titled personal property. The proceeds of the commercially reasonable sale shall be applied to the principal, interest, and all fees owed by the pledgor to the title pledge lender. Any surplus amounts shall be remitted to the pledgor. There shall be no further interest charged to the pledgor from the commencement of the sixty (60) day period.

(5) Any attempt to circumvent the interest rates and charges as specified in subsections (3) and (4) of Section 8 and Section 12 of this Act and this section shall be null and void. A title pledge lending transaction shall be considered to have been extended or continued unless:

(a) All charges, fees, and the principal have actually been paid or repaid on the previous title pledge lending transaction;

(b) The pledged titled personal property in the previous transaction, including a motor vehicle certificate of title, has actually been restored to the possession of the pledgor; and

(c) The pledged titled personal property in the previous transaction has been removed from the business premises of the title pledge lender and, any lien on a motor vehicle certificate of title has been removed or released.

SECTION 14. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Any person who lawfully repossesses a motor vehicle shall be an involuntary, gratuitous, or naked depository of any personal property found in a motor vehicle and shall have a lien on the property for any reasonable expenses incurred in storing the property or in giving notice to the owner.

(2) Within ten (10) days of the date of repossession, the person repossessing the motor vehicle shall notify the owner of the motor vehicle of the intent to dispose of the personal property found in a motor vehicle. The notice shall be actual notice but may be by personal service or by service by certified mail.

(3) The personal property found in the motor vehicle shall be redeemed by the owner without paying any fee, interest, charge, or other amount, other than any reasonable expense as set forth in subsection (1) of this section.

(4) If the personal property found in the motor vehicle is not redeemed within thirty (30) days from the date of the first notice, a second notice shall be sent in the same manner as provided in (2) of this section.

(5) If the personal property found in the motor vehicle is not redeemed within thirty (30) days from the date of the second notice the personal property found in the motor vehicle may be disposed of in the manner most expeditious to the depository without further liability, and the proceeds shall be applied to the principal, interest, and all fees owed by the pledgor to the title pledge lender. Any surplus amount shall be remitted to the pledgor.

SECTION 15. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

No license shall be revoked without a hearing, except a revocation in accordance with subsection (2) of Section 16 of this Act. The department shall give the licensee at least twenty (20) days' written notice of the time and place of a hearing by certified mail addressed to the principal place of business of the licensee. Any order of the commissioner revoking a license shall state the grounds upon which it is based and shall not be effective until the twenty (20) days after written notice has been sent by certified mail to the licensee at his principal place of business. Hearings shall be conducted in accordance with KRS Chapter 13B.

SECTION 16. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Every person who knowingly violates any of the provisions of Sections 1 to 16 of this Act, is guilty of a Class A misdemeanor.

(2) If a conviction is obtained for the violation of any of the provisions of Sections 1 to 16 of this Act, the license of the title pledge lender shall be revoked by the department.

(3) The department shall have the authority to impose a fine of no less than five hundred dollars ($500) and no more than one thousand dollars ($1,000) per violation, against any person for a violation of the provisions of Sections 1 to 16 of this Act.

(4) The commissioner may revoke a license on any ground on which he may refuse to grant a license, for violation of any administrative regulation promulgated to carry out the provisions of Sections 1 to 16 of this Act, or for violation of any provision of Sections 1 to 16 of this Act.

The Committee Amendment No. 1 to **HB 676** is as follows:

On page 2, line 1 after "*title*" by adding "*but shall not include mobile homes*";

On page 2, line 22 after "*of*" and before "*each*" by inserting "*all*" and by deleting "*each*";

On page 2, line 25 after "*of*" and before "*each*" by inserting "*all*" and by deleting "*each*";

On page 3, line 7 after "*officer*" by adding "*or*" and after "*employee*" by deleting "*, or five percent (5%) or*";

On page 3, line 8 by deleting "*more shareholder of the applicant, or owns or controls the applicant*";

On page 4, line 11 after "*(3)*" by adding "*CPA reviewed*" and by deleting "*Audited*";

On page 5, after line 16 and before line 17 by inserting the following:

"*(3) Reports of examination, and correspondence that relates to the report of examination of a title pledge lender shall be considered confidential information. No officer or director of a title pledge lender, or employee of the department, shall release any information contained in the examination, except if:*

(a) Required in a proper legal proceeding in which a subpoena and protective order insuring confidentially has been issued by a court of competent jurisdiction; or

(b) The information is referred to an appropriate prosecuting attorney for possible criminal proceedings, to outside persons providing professional services to the title pledge lender, or to outside persons for the purpose of evaluating the title pledge lender for possible acquisition. Reports of examination released to outside persons providing professional services to the title pledge lender or for the purpose of evaluating the title pledge lender for possible acquisition, shall require a written request from the outside person and prior approval by the board of directors or an executive committee of the title pledge lender.

(4) The department may furnish to and exchange information and reports with officials and examiners of other properly authorized state or federal regulatory authorities.

(5) Every official report concerning a title pledge lender, and every report of examination, shall be prima facie evidence of the facts stated therein for all purposes in any action in which the department or title pledge lender is a party.";

On page 6, line 5 after "*continued*" by adding "*by agreement of the parties*";

On page 7, after line 20 and before line 21 by inserting the following:

"*(8) A title pledge lender shall not lend moneys in excess of four thousand dollars ($4,000) to any one (1) title pledge borrower at a given time.*"

On page 8 by deleting lines 25, 26, and 27 in their entirety;

On page 9, line 1 by deleting "***(h)***" and inserting in lieu thereof "***(g)***";

On page 9, line 3 by deleting "***(i)***" and inserting in lieu thereof "***(h)***";

On page 9, line 7 by deleting "***(j)***" and inserting in lieu thereof "***(i)***";

On page 9, line 9 by deleting "***(k)***" and inserting in lieu thereof "***(j)***";

On page 9, line 12 by deleting "***(l)***" and inserting in lieu thereof "***(k)***";

On page 9, line 14 after "***vehicle;***" by adding "***and***";

On page 9, line 15 by deleting "***(m)***" and inserting in lieu thereof "***(l)***";

On page 9, line 16 after "***exceed***" by adding "***the lender's costs***", and by deleting "***twenty five dollars ($25)***";

On page 9, line 17 after "***vehicle***" by adding "***.***", and by deleting "***; and***";

On page 9, by deleting lines 18 to 22 in their entirety;

On page 12, line 13 after "***shall***" by adding "***return the personal property to the owner of the motor vehicle.***"; and by deleting "***have a lien on the property for any reasonable expenses incurred in***";

On page 12, by deleting lines 14 to 27 in their entirety; and

On page 13, by deleting lines 1 to 3 in their entirety.

HB 684, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.42-020 is amended to read as follows:

The purpose of this subtitle is to protect ***the persons specified in subsection (1) of Section 2 of this Act***~~[policy owners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts]~~, subject to certain limitations, against failure in the performance of contractual obligations ***under life and health insurance policies and annuity contracts specified in subsection (2) of Section 2 of this Act because of***~~[due to]~~ the impairment or insolvency of the ***member*** insurer ***that issued the***~~[issuing such]~~ policies or contracts. To provide this protection:

(1) An association of insurers is created to ***pay***~~[enable the guaranty of payment of]~~ benefits and ***to continue***~~[of continuation of]~~ coverages ***as limited by this subtitle; and***

(2) Members of the association are subject to assessment to provide funds to carry out the purpose of this subtitle~~[; and~~

~~(3) The association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies]~~.

Section 2. KRS 304.42-030 is amended to read as follows:

(1) This subtitle shall provide coverage for the policies and contracts specified in subsection (2) of this section:

(a) To persons who, regardless of where they reside (except for nonresident certificate holders under group policies or contracts), are the beneficiaries, assignees or payees of the persons covered under paragraph (b) of this subsection***.***~~[; and]~~

(b) To persons who are the owners of or certificate holders under such policies or contracts, ***other than structured settlement annuities,***~~[and]~~ who:

1. Are residents; or

2. Are not residents, but only under the following conditions:

a. The ***insurer***~~[insurers]~~ which issued ***the***~~[such]~~ policies or contracts ***is***~~[are]~~ domiciled in this state;

b. ***The states in which the persons reside have associations similar to the association created by this subtitle***~~[Such insurers never held a certificate of authority in the states in which such persons reside]~~; ***and***

c.~~[Such states have associations similar to the association created by this subtitle; and~~

~~d.]~~ ***The***~~[Such]~~ persons are not eligible for coverage by ***an association in any other state due to the fact that the insurer was not licensed in the state at the time specified in the state's guaranty association law***~~[such associations]~~.

(c) For structured settlement annuities covered in subsection (2) of this section, paragraphs (a) and (b) of this subsection shall not apply and this subtitle shall, except as provided in paragraphs (d) and (e) of this subsection, provide coverage to a person who is a payee under a structured settlement annuity, or beneficiary

of a payee if the payee is deceased, if the payee is a resident, regardless of where the contract owner resides. If the payee is not a resident, this subtitle shall provide coverage but only under both of the following conditions:

1. a. The contract owner of the structured settlement annuity is a resident; or

b. The contract owner of the structured settlement annuity is not a resident, but the insurer that issued the structured settlement annuity is domiciled in this state and the state in which the contract owner resides has an association similar to the association created by this subtitle; and

2. Neither the payee, the beneficiary, nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides.

(d) This subtitle shall not provide coverage to a person who is a payee or beneficiary of a contract owner resident of this state, if the payee or beneficiary is afforded any coverage by the association of another state.

(e) This subtitle is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. In order to avoid duplicate coverage, if a person who would otherwise receive coverage in this subtitle is provided coverage under the laws of any other state, the person shall not be provided coverage under this subtitle. In determining the application of the provisions of this paragraph in situations where a person could be covered by the association of more than one (1) state, whether as an owner, payee, beneficiary, or assignee, this subtitle shall be construed in conjunction with other state laws to result in coverage by only one (1) association.

(2) (a) This subtitle shall provide coverage to the persons specified in subsection (1) of this section for direct, nongroup life, health, ***or*** annuity[~~, and supplemental~~] policies or contracts and ***supplemental contracts to any of these and*** for certificates issued under direct group policies and contracts.

(b) This subtitle shall not provide coverage for:

1. Any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract ***owner***[~~holder~~];

2. Any policy or contract of reinsurance, unless assumption certificates have been issued ***pursuant to the reinsurance policy or contract***;

3. Any portion of a policy or contract to the extent that the rate of interest on which it is based:

a. Averaged over the period of four (4) years prior to the date on which the association becomes obligated with respect to such policy or contract, exceeds a rate of interest determined by subtracting two (2) percentage points from Moody's corporate bond yield average averaged for that same four (4) year period or for such lesser period if the policy or contract was issued less than four (4) years before the association became obligated; and

b. On and after the date on which the association becomes obligated with respect to ***the***[~~such~~] policy or contract, exceeds the rate of interest determined by subtracting three (3) percentage points from Moody's corporate bond yield average as most recently available;

4. Any ***pursuant to the reinsurance policy or contract*** plan or program of an employer, association, or ***other person***[~~similar entity~~] to provide life, health, or annuity benefits to its employees***,***[~~, or~~] members***, or others*** to the extent that such plan or program is self-funded or uninsured including, but not limited to, benefits payable by an employer, association, or ***other person***[~~similar entity~~] under:

a. A multiple employer welfare arrangement as defined in 29 U.S.C. Section 1144;

b. A minimum premium group insurance plan;

c. A stop-loss group insurance plan; or

d. An administrative services only contract;

5. Any portion of a policy or contract to the extent that it provides ***for:***

a. Dividends or experience rating credits***;***[~~, or~~]

b. ***Payment of***[~~provides that~~] any fees or allowances[~~ be paid~~] to any person, including the policy or contract ***owner***[~~holder~~], in connection with the service to or administration of such policy or contract; ***or***

c. Voting rights;

6. Any policy or contract issued in this state by a member insurer at a time when it did not have a certificate of authority to issue such policy or contract in this state;[~~ and~~]

7. Any unallocated annuity contract***;***

8. A portion of a policy or contract to the extent that the assessments required by Section 6 of this Act with respect to the policy or contract are preempted by federal or state law;

9. An obligation that does not arise under the express written terms of the policy or contract issued by the insurer to the contract owner or policy owner, including without limitation:

a. Claims based on marketing materials;

b. Claims based on side letters, riders, or other documents that were issued by the insurer without meeting applicable policy form filing or approval requirements;

c. Misrepresentations of or regarding policy benefits;

d. Extracontractual claims; or

e. A claim for penalties or consequential or incidental damages; and

10. A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee which in each case is not an affiliate of the member insurer.

(3) ***(a)*** The benefits ***that***[~~for which~~] the association may become ***obligated to cover***[~~liable~~] shall in no event exceed the lesser of:

1.[~~(a)~~] The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer;[~~ or~~]

2.[~~(b)~~] With respect to any one (1) life, regardless of the number of policies or contracts:

a.[~~1.~~] Three hundred thousand dollars ($300,000) in life insurance death benefits, but not more than one hundred thousand dollars ($100,000) net cash surrender and net cash withdrawal values for life insurance;

b.[~~2.~~] One hundred thousand dollars ($100,000) in health insurance benefits, including any net cash surrender and net cash withdrawal values;

c.[~~3.~~] One hundred thousand dollars ($100,000) in the present value of annuity benefits, including net cash surrender and net cash withdrawal values***; or***

3. With respect to each payee of a structured settlement annuity or beneficiary or beneficiaries of the payee if deceased, one hundred thousand dollars ($100,000) in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values.

(b) In no event shall the association be obligated to cover more than:

1. An aggregate of three hundred thousand dollars ($300,000) in benefits with respect to any one (1) life under subparagraphs 2. and 3. of paragraph (a) of this subsection; or

2. With respect to one (1) owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, more than one million dollars ($1,000,000) in benefits, regardless of the number of policies and contracts held by the owner.

(c) The limitations set forth in this subsection are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The costs of the association's obligations under this subtitle may be met by the use of assets attributable to covered policies or reimbursed to the association in accordance with its subrogation and assignment rights.

(4) In performing its obligations to provide coverage under Section 5 of this Act, the association shall not be required to guarantee, assume, reinsure or perform, or cause to be performed, assumed, reinsured or performed, the contractual obligations of the insolvent or impaired insurer under a covered policy or contract that do not materially affect the economic values or economic benefits of the covered policy or contract.

Section 3. KRS 304.42-040 is amended to read as follows:

This subtitle shall be liberally construed to effect the purpose under KRS 304.42-020[~~ which shall constitute an aid and guide to interpretation~~].

Section 4. KRS 304.42-050 is amended to read as follows:

As used in this subtitle:

(1) "Account" means either of the three (3) accounts created under KRS 304.42-060.

(2) "Association" means the Kentucky Life and Health Insurance Guaranty Association created under KRS 304.42-060.

(3) ***"Authorized assessment" or the term "authorized" when used in the context of assessments means a resolution by the board of directors has been passed whereby an assessment will be called immediately or in the future from member insurers for a specific amount. An assessment is authorized when the resolution is passed.***

(4) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan.

(5) "Called assessment" or the term "called" when used in the context of assessments means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.

(6) "Commissioner" means the commissioner of insurance of this state.

(7)[~~(4)~~] "Contractual obligation" means any obligation under a policy or contract or a certificate under a group policy or contract, or portion thereof, for which coverage is provided under KRS 304.42-030.

(8)[~~(5)~~] "Covered policy" means any policy or contract ***or portion of a policy or contract for which coverage is provided under***[~~within the scope of~~] KRS 304.42-030.

(9) "Extracontractual claims" include, but are not limited to, claims relating to bad faith in the payment of claims, punitive or exemplary damages, and attorneys' fees and costs.

(10)[~~(6)~~] "Impaired insurer" means a member insurer which, after June 17, 1978, is not an insolvent insurer and:

(a) Is deemed by the commissioner to be potentially unable to fulfill its contractual obligations; or

(b) Is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(11)[~~(7)~~] "Insolvent insurer" means a member insurer which after June 17, 1978, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

(12)[~~(8)~~] "Member insurer" means any insurer authorized to transact in this state any kind of insurance for which coverage is provided under KRS 304.42-030, and includes any insurer whose certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include:

(a) A nonprofit hospital, medical-surgical, dental, and health service corporation, as defined by Subtitle 32 of this chapter;

(b) A health maintenance organization;

(c) A fraternal benefit society;

(d) A mandatory state pooling plan;

(e) An assessment or cooperative insurer or any entity that operates on an assessment basis;

(f) An insurance exchange;

(g) Any entity similar to the above; or

(h) Health insurance where such insurance is written by a member of the Kentucky Insurance Guaranty Association.

(13)[~~(9)~~] "Moody's corporate bond yield average" means the monthly average corporates as published by Moody's Investors Service, Inc., or any successor thereto.

(14) "Owner" of a policy or contract and "policy owner" and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the insurer. The terms "owner," "contract owner," and "policy owner" do not include persons with a mere beneficial interest in a policy or contract.

(15)[~~(10)~~] "Premiums" means amounts ***or considerations, by whatever name called,*** received on covered policies or contracts less ***returned*** premiums, considerations, and deposits[~~ returned thereon~~], and less dividends and experience credits[~~ thereon~~]. "Premiums" does not include[~~ any~~] amounts ***or considerations*** received for any policies or contracts or for the portions of[~~ any~~] policies or contracts for which coverage is not provided under KRS 304.42-030(2), except that assessable premium shall not be reduced on account of KRS 304.42-030(2)(b)3. ***Relative to interest limitations and subsection (3)(b) of Section 2 of this Act relating to limitations with respect to one (1) individual and one (1) contract owner. "Premiums" shall not include with respect to multiple nongroup policies of life insurance owned by one (1) owner, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of one million dollars ($1,000,000) with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.***

(16)[~~(11)~~] "Person" means any individual, corporation, ***limited liability company,*** partnership, association***, governmental body or entity,*** or voluntary organization.

(17) "Plan sponsor" means:

(a) The employer in the case of a benefit plan established or maintained by a single employer;

(b) The employee organization in the case of a benefit plan established or maintained by an employee organization; or

(c) In a case of a benefit plan established or maintained by two (2) or more employers or jointly by one (1) or more employers and one (1) or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(18) (a) "Principal place of business" of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise the function, determined by the association in its reasonable judgment by considering the following factors:

1. The state in which the primary executive and administrative headquarters of the entity is located;

2. The state in which the principal office of the chief executive officer of the entity is located;

3. The state in which the board of directors or similar governing person or persons of the entity conducts the majority of its meetings;

4. The state in which the executive or management committee of the board of directors or similar governing person or persons of the entity conducts the majority of its meetings;

5. The state from which the management of the overall operations of the entity is directed; and

6. In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the above factors.

However, in the case of a plan sponsor, if more than fifty percent (50%) of the participants in the benefit plan are employed in a single state, that state shall be deemed to be the principal place of business of the plan sponsor.

(b) The principal place of business of a plan sponsor of a benefit plan described in subsection (17)(c) of this section shall be deemed to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan or question.

(19) "Receivership court" means the court in the insolvent or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the insurer.

(20)[~~(12)~~] "Resident" means any person *to whom a contractual obligation is owed and* who resides in this state *on the date when*[~~at the time~~] a member insurer is determined to be an impaired or insolvent insurer*, whichever occurs first*[~~and to whom contractual obligations are owed~~]. A person may be a resident of only one (1) state, which in the case of a person other than a natural person shall be its principal place of business. *Citizens of the United States that are either residents of foreign countries or residents of United States possessions, territories, or protectorates that do not have an association similar to the association created by this subtitle shall be deemed residents of the state of domicile of the insurer that issued the policies or contracts.*

(21) "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(22) "State" means a state, the District of Columbia, Puerto Rico, and a United States possession, territory, or protectorate.

(23)[~~(13)~~] "Supplemental contract" means *a written*[~~any~~] agreement entered into for the distribution of[~~ policy or contract~~] proceeds *under a life, health, or annuity policy or contract*.

(24)[~~(14)~~] "Unallocated annuity contract" means any annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate.

Section 5. KRS 304.42-080 is amended to read as follows:

(1) If a member insurer is an impaired domestic insurer, the association may, in its discretion, and subject to any conditions imposed by the association that do not impair the contractual obligations of the impaired insurer *and*[~~,~~] that are approved by the commissioner[~~, and that are (except in the cases of court ordered conservation or rehabilitation) also approved by the impaired insurer~~]:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer; ***or***

(b) Provide such monies, pledges, ***loans,*** notes, guarantees, or other means as are proper to effectuate paragraph (a) of this subsection and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (a) of this subsection[~~; or~~

~~(c) Loan money to the impaired insurer.~~

~~(2) (a) If a member insurer is an impaired insurer, whether domestic, foreign, or alien, and the insurer is not paying claims timely, then, subject to the preconditions specified in paragraph (b) of this subsection, the association shall, in its discretion, either:~~

~~1. Take any of the actions specified in subsection (1) of this section subject to the conditions therein; or~~

~~2. Provide substitute benefits in lieu of the contractual obligations of the impaired insurer solely for health claims, periodic annuity benefit payments, death benefits, supplemental benefits, and cash withdrawals for policy or contract owners who petition therefor under claims of emergency or hardship in accordance with standards proposed by the association and approved by the commissioner.~~

~~(b) The association shall be subject to the requirements of paragraph (a) of this subsection only if:~~

~~1. The laws of the state of domicile of the impaired insurer provide that until all payments of or on account of the impaired insurer's contractual obligations by all guaranty associations, along with all expenses thereof and interest on all such payments and expenses, shall have been repaid to the guaranty associations or a plan of repayment by the impaired insurer shall have been approved by the guaranty associations:~~

~~a. The delinquency proceeding shall not be dismissed;~~

~~b. Neither the impaired insurer nor its assets shall be returned to the control of its shareholders or private management;~~

~~c. It shall not be permitted to solicit or accept new business or have any suspended or revoked certificate of authority restored; and~~

~~2. a. If the impaired insurer is a domestic insurer, it has been placed under an order of rehabilitation by a court of competent jurisdiction in this state; or~~

~~b. If the impaired insurer is a foreign or alien insurer, it has been prohibited from soliciting or accepting new business in this state, its certificate of authority has been suspended or revoked in this state, and a petition for rehabilitation or liquidation has been filed in a court of competent jurisdiction in its state of domicile by the insurance supervisory official of that state~~].

(2)[~~(3)~~] If a member insurer is an insolvent insurer, the association shall, in its discretion, either:

(a) 1. Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the policies or contracts of the insolvent insurer; or

2. Assure payment of the contractual obligations of the insolvent insurer; and

3. Provide such monies, pledges, ***loans, notes,*** guarantees, or other means as are reasonably necessary to discharge such duties; or

(b) [~~With respect only to life and health insurance policies,~~]Provide benefits and coverages in accordance ***the following provisions:***[~~with subsection (4) of this section.~~]

[~~(4) When proceeding under subsections (2)(a)2. or (3)(b) of this section, the association shall, with respect to only life and health insurance policies:~~]

1.[~~(a)~~] ***With respect to life and health insurance policies and annuities,*** assure payment of benefits for premiums identical to the premiums and benefits (except for terms of conversion and renewability) that would have been payable under policies ***or contracts*** of the insolvent insurer, for claims incurred:

a.[~~1.~~] With respect to group policies ***and contracts***, not later than the earlier of the next renewal date under such policies or contracts or forty-five (45) days, but in no event less than thirty (30) days, after the date on which the association becomes obligated with respect to such policies ***or contracts***;

b.[~~2.~~] With respect to ***nongroup***[~~individual~~] policies, ***contracts, and annuities*** not later than the earlier of the next renewal date (if any) under such policies ***or contracts*** or one (1) year, but in no event less than thirty (30) days, from the date on which the association becomes obligated with respect to such policies ***or contracts***;

2.[~~(b)~~] Make diligent efforts to provide all known insureds or ***annuitants for nongroup policies and contracts, or group policy owners with respect to group policies and contracts***[~~group policyholders with respect to~~

~~group policies~~] thirty (30) days' notice of the termination ***under subparagraph 1. of this paragraph*** of the benefits provided;[~~ and~~]

3.[~~(c)~~] With respect to individual ***health and life insurance*** policies, ***and annuities covered by the association,*** make available to each known insured ***or annuitant***, or owner if other than the insured ***or annuitant***, and with respect to an individual formerly insured ***or formerly and annuitant*** under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of paragraph (d) of this subsection, if the insureds ***or annuitants*** had a right under law or the terminated policy to convert coverage to individual coverage or to continue an individual policy ***or annuity*** in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class***;***[~~.~~]

4. a.[~~(d) 1.~~]In providing substitute coverage required under ***subparagraph 3. of this*** paragraph[~~ (c) of this subsection~~] the association may offer either to reissue the terminated coverage or to issue an alternative policy.

b.[~~2.~~] Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy.

c.[~~3.~~] The association may reinsure any alternative or reissued policy.

5. a.[~~(e) 1.~~] Alternative policies adopted by the association shall be subject to approval by the ***domiciliary insurance*** commissioner ***or receivership court***. The association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

b.[~~2.~~] Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates which it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

c.[~~3.~~] Any alternative policy issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

6.[~~(f)~~] If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval by the ***domiciliary insurance*** commissioner or by ***the receivership***[~~a~~] court***;***[~~ of competent jurisdiction.~~]

7.[~~(g)~~] The association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date such coverage or policy is replaced by another similar policy by the ***policy owner***[~~policyholder~~], the insured, or the association***;***[~~.~~]

(3)[~~(5)~~] When proceeding under ***subsection***[~~subsections~~] (2)[~~(a)2. or (3)~~] of this section with respect to any policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with KRS 304.42-030(2)(b)3.

(4)[~~(6)~~] Nonpayment of premiums within thirty-one (31) days after the date required under the terms of any guaranteed, assumed, alternative, or reissued policy or contract for substitute coverage shall terminate the association's obligations under such policy or coverage under this subtitle with respect to such policy or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this subtitle.

(5)[~~(7)~~] Premiums due for coverage after entry of an order of liquidation of an insolvent insurer shall belong to and be payable at the direction of the association, and the association shall be liable for unearned premiums due to policy or contract owners arising after the entry of such order.

(6)[~~(8)~~] The protection provided by this subtitle shall not apply where any guaranteed protection is provided to residents of this state by the laws of the domiciliary state or jurisdiction of the impaired or insolvent insurer other than this state.

(7)[~~(9)~~] In carrying out its duties under ***subsection***[~~subsections~~] (2)[~~ and (3)~~] of this section, the association may[~~, subject to approval by the court~~]:

(a) ***Subject to approval by a court in this state,*** impose permanent policy or contract liens in connection with any guarantee, assumption, or reinsurance agreement, if the association finds that the amounts which can be assessed under this subtitle are less than the amounts needed to assure full and prompt performance of the association's duties under this subtitle, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of such permanent policy or contract liens to be in the public interest; and

(b) ***Subject to approval by a court in this state,*** impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. ***In addition, in the event of a temporary moratorium or moratorium charge imposed by the receivership court on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired or insolvent insurer, the association may defer the payment of cash values, policy loans, or other rights by the association for the period of the moratorium or moratorium charge imposed by the receivership court, except for claims covered by the association to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.***

(8) A deposit in this state, held under law or required by the commissioner for the benefit of creditors, including policy owners, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of an insurer domiciled in this state or in a reciprocal state, shall be promptly paid to the association. The association:

(a) Shall be entitled to retain a portion of any amount so paid to it equal to the percentage determined by dividing the aggregate amount of policy owners' claims related to that insolvency for which the association has provided statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency; and

(b) Shall remit to the domiciliary receiver the amount so paid to the association and retained in accordance with paragraph (a) of this subsection. Any amount so paid to the association less the amount retained by it in accordance with paragraph (a) of this subsection shall be treated as a distribution of estate assets under KRS 304.33-440 or similar provision of the state of domicile of the impaired or insolvent insurer.

(9)[~~(10)~~] If the association fails to act within a reasonable period of time ***with respect to an insolvent insurer*** as provided in ***subsection***[~~subsections~~] (2)[~~(a)2., (3), and (4)~~] of this section, the commissioner shall have the powers and duties of the association under this subtitle with respect to ***the***[~~impaired or~~] insolvent insurers.

(10)[~~(11)~~] The association may render assistance and advice to the commissioner, upon his request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(11)[~~(12)~~] The association shall have standing to appear ***or intervene*** before any court ***or agency*** in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this subtitle ***or with jurisdiction over any person or property against whom the association may have rights through subrogation or otherwise***. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring, modifying, or guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination of the policies or contracts and contractual obligations. The association shall also have the right to appear or intervene before a court ***or agency*** in another state with jurisdiction over an impaired or insolvent insurer for which the association is or may become obligated or with jurisdiction over ***any person or property***[~~a third party~~] against whom the association may have rights through subrogation ***or otherwise***[~~of the insurer's policyholders~~].

(12)[~~(13)~~] (a) Any person receiving benefits under this subtitle shall be deemed to have assigned the rights under, and any causes of action ***against any person for losses arising under, resulting from, or otherwise*** relating to, the covered policy or contract to the association to the extent the benefits received because of this subtitle, whether benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative coverages. The association may require an assignment to it of such rights and cause of action by any payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of any right or benefits conferred by this subtitle upon such person.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this subtitle.

(c) In addition to paragraphs (a) and (b) of this subsection, the association shall have all common law rights of subrogation and any other equitable or legal remedy ***that***[~~which~~] would have been available to the impaired or insolvent insurer or ***owner, beneficiary, or payee***[~~holder~~] of a policy or contract with respect to such policy or contract***, including without limitation, in the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee of the annuity, to the extent of benefits received under this subtitle against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment therefor.***

(d) If the preceding provisions of this subsection are invalid or ineffective with respect to any person or claim for

any reason, the amount payable by the association with respect to the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies or portion thereof covered by the association.

(e) If the association has provided benefits with respect to a covered obligation and a person recovers amounts as to which the association has rights as described in the preceding paragraphs of this subsection, the person shall pay to the association the portion of the recovery attributable to the policies or portion thereof covered by the association.

(13)[~~(14)~~] ***In addition to the rights and powers elsewhere in this subtitle,*** the association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this subtitle;

(b) Sue or be sued, including taking any legal actions necessary or proper to recover any unpaid assessments under KRS 304.42-090 and to settle claims or potential claims against it;

(c) Borrow money to effect the purposes of this subtitle; any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(d) Employ or retain such persons as are necessary ***or appropriate*** to handle the financial transactions of the association, and to perform such other functions as may become necessary or proper under this subtitle;

(e) Take such legal action as may be necessary ***or appropriate*** to avoid ***or recover*** payment of improper claims;[~~ and~~]

(f) Exercise, for the purposes of this subtitle and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform its obligations under this subtitle***;***

(g) Organize itself as a corporation or in other legal form permitted by the laws of the state;

(h) Request information from a person seeking coverage from the association in order to aid the association in determining its obligations under this subtitle with respect to the person, and the person shall promptly comply with the request; and

(i) Take other necessary or appropriate action to discharge its duties and obligations under this subtitle or to exercise its powers under this subtitle.

(14)[~~(15)~~] The association may join an organization of one (1) or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

(15) (a) At any time within one (1) year after the date on which the association becomes responsible for the obligations of a member insurer, the association may elect to succeed to the rights and obligations of the member insurer that accrue on or after that date and that relate to contracts covered in whole or in part by the association, under any one (1) or more indemnity reinsurance agreements entered into by the member insurer as a ceding insurer and selected by the association. The association may not exercise any such election with respect to a reinsurance agreement if the receiver, rehabilitator, or liquidator of the member insurer has previously and expressly disaffirmed the reinsurance agreement. The election shall be effected by a notice to the receiver, rehabilitator, or liquidator and to the affected reinsurer. If the association makes an election, subparagraphs 1. to 4. of this paragraph shall apply with respect to the agreements selected by the association:

1. The association shall be responsible for all unpaid premiums due under the agreements for periods both before and after the date, and shall be responsible for the performance of all other obligations to be performed after the coverage date, in each case which relate to contracts covered, in whole or in part, by the association. The association may charge contracts covered in part by the association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the association.

2. The association shall be entitled to any amounts payable by the reinsurer under the agreements with respect to losses or events that occur in periods after the coverage date and that relate to contracts covered by the association, in whole or in part. Upon receipt of any such amounts the association shall be obliged to pay to the beneficiary under the policy or contract on account of which the amounts were paid a portion of the amount equal to the excess of:

a. The amount received by the association, over

b. The benefits paid by the association on account of the policy or contract less the retention of the impaired or insolvent member insurer applicable to the loss or event.

3. Within thirty (30) days following the association's election, the association and each indemnity reinsurer shall calculate the net balance due to or from the association under each such reinsurance agreement as of the date of the association's election, which calculation shall give full credit to all

items paid by either the member insurer or its receiver, rehabilitator, or liquidator, or the indemnity reinsurer during the period between the coverage date and the date of the association's election. Either the association or indemnity reinsurer shall pay the net balance due the other within five (5) days of the completion of the calculation. If the receiver, rehabilitator, or liquidator has received any amounts due the association under subparagraph 2. of this paragraph, the receiver, rehabilitator, or liquidator shall remit those amounts to the association as promptly as practicable.

4. If the association, within sixty (60) days of the election, pays the premiums due for periods both before and after the coverage date that relate to contracts covered by the association in whole or in part, the insurer shall not be entitled to terminate the reinsurance agreements insofar as the agreements relate to contracts covered by the association in whole or in part and shall not be entitled to set off any unpaid premium due for periods prior to the coverage date against amounts due the association.

(b) If the association transfers its obligations to another insurer, and if the association and the other insurer agree, the other insurer shall succeed to the rights and obligations of the association under paragraph (a) of this subsection effective as of the date agreed upon by the association and the other insurer and regardless of whether the association has made the election referred to in paragraph (a) of this subsection if:

1. The indemnity reinsurance agreements automatically terminate for new reinsurance unless the indemnity reinsurer and the other insurer agree to the contrary;

2. The obligations described in subparagraph 2. of paragraph (a) of this subsection no longer apply on and after the date the indemnity reinsurance agreement is transferred to the third party insurer; and

3. The association has not previously expressly determined in writing that it will not exercise the election referred to in paragraph (a) of this subsection.

(c) The provisions of this subsection shall supersede the provisions of any law of this state or of any affected reinsurance agreements that provide for or require any payment of reinsurance proceeds, on account of losses or events that occur in periods after the coverage date, to the receiver, liquidator, or rehabilitator of the insolvent member insurer. The receiver, rehabilitator, or liquidator shall remain entitled to any amounts payable by the reinsurer under the reinsurance agreements with respect to losses or events that occur in periods prior to the coverage date, subject to applicable setoff provisions.

(d) Except as otherwise expressly provided in this subsection, nothing in this subsection shall alter or modify the terms and conditions of the indemnity reinsurance agreements of the insolvent member insurer. Nothing in this subsection shall abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance agreement. Nothing in this subsection shall give a policy owner or beneficiary an independent cause of action against an indemnity reinsurer that is not otherwise set forth in the indemnity reinsurance agreement.

(16) The board of directors of the association shall have discretion and may exercise reasonable business judgment to determine the means by which the association is to provide the benefits of this subtitle in an economical and efficient manner.

(17) If the association has arranged or offered to provide the benefits of this subtitle to a covered person under a plan or arrangement that fulfills the association's obligations under this subtitle, the person shall not be entitled to benefits from the association in addition to or other than those provided under the plan or arrangement.

(18) Venue in a suit against the association under this subtitle shall be in Franklin County. The association shall not be required to give an appeal bond in an appeal that relates to a cause of action arising under this subtitle.

Section 6. KRS 304.42-090 is amended to read as follows:

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than thirty (30) days after prior written notice to the member insurers and shall accrue interest at eight percent (8%) per annum on and after the due date.

(2) There shall be two (2) classes of assessments:

(a) Class A assessments shall be made for the purpose of meeting administrative and legal costs and other expenses[~~ and examinations conducted under the authority of KRS 304.42-120(5)~~]. Class A assessments may be ***authorized and called***[~~made~~] whether or not related to a particular impaired or insolvent insurer;

(b) Class B assessments shall be ***authorized and called***[~~made~~] to the extent necessary to carry out the powers and duties of the association under KRS 304.42-080 with regard to an impaired or insolvent insurer.

(3) (a) The amount of any Class A assessment shall be determined by the board and may be ***authorized and called***[~~made~~] on a pro rata or non-pro rata basis. If pro rata, the board may provide that it be credited against future Class B assessments. ***The total of all***[~~A~~] non-pro rata ***assessments***[~~assessment~~] shall not exceed one

hundred fifty dollars ($150) per member insurer in any one (1) calendar year. The amount of any Class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.[~~;~~]

(b) Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the three (3) most recent calendar years for which information is available preceding the year in which the insurer became ***insolvent, or in the case of assessment with respect to an impaired insurer, the three (3) most recent calendar years for which information is available preceding the year in which the insurer became*** impaired,[~~ or insolvent~~] bears to such premiums received on business in this state for such calendar years by all assessed member insurers.[~~; and~~]

(c) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this subtitle. Classification of assessments under subsection (2) of this section and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. ***The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within one hundred eighty (180) days after the assessment is authorized.***

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. ***Once the conditions that caused a deferral have been removed or rectified, the member shall pay all assessments that were deferred under a repayment plan approved by the association.***

(5) (a) ***Subject to the provisions of paragraph (b) of this subsection,*** the total of all assessments ***authorized by the association with respect to***[~~upon~~] a member insurer for each account shall not in any one (1) calendar year exceed two percent (2%) of ***the***[~~such~~] insurer's ***average annual premiums received in this state on the policies and contracts covered by the account during the three (3) calendar years preceding the year in which the insurer became an impaired or insolvent insurer***[~~premiums received in this state during the calendar year preceding the assessment on the policies covered by the account~~]. If the maximum assessment, together with the other assets of the association in ***any other***[~~either~~] account, does not provide in any one (1) year in ***any other***[~~either~~] account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this subtitle.

(b) ***If two (2) or more assessments are authorized in one (1) calendar year with respect to insurers that become impaired or insolvent in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation referenced in paragraph (a) of this subsection shall be equal and limited to the higher of the three (3) year average annual premiums for the applicable subaccount or account as calculated under this section.***

(c) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one (1) or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from ***assignment, subrogation,*** net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses ***claims***[~~if refunds are impractical~~].

(7) It shall be proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance within the scope of this subtitle, to consider the amount reasonably necessary to meet its assessment obligations under this subtitle.

(8) The association shall issue to each insurer paying an assessment under this subtitle, other than a Class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

(9) (a) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as set forth in the notice provided by the association. The payment shall be available to meet

association obligations during the pendency of the protest or any subsequent appeal. Payment shall be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest.

(b) Within sixty (60) days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest.

(c) Within thirty (30) days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within sixty (60) days of receipt of notice of the final decision, the protesting member insurer may appeal the final action to the commissioner, in accordance with subsection (3) of Section 7 of this Act.

(d) In the alternative to rendering a final decision with respect to a protest based on a question regarding the assessment base, the association may refer protests to the commissioner for a final decision, with or without a recommendation from the association.

(e) If the protest or appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member company. Interest on a refund due a protesting member shall be paid at the rate actually earned by the association.

(10) The association may request information of member insurers in order to aid in the exercise of its power under this section and member insurers shall promptly comply with a request.

Section 7. KRS 304.42-110 is amended to read as follows:

In addition to the duties and powers enumerated elsewhere in this subtitle:

(1) The commissioner shall:

(a) Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer;

(b) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to promptly comply with the demand shall not excuse the association from the performance of its powers and duties under this subtitle; and

(c) In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the commissioner may be appointed conservator.

(2) The commissioner may suspend or revoke, after notice and hearing conducted in accordance with KRS Chapter 13B, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. A forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(3) Any ***final*** action of the board of directors or the association may be appealed to the commissioner by any member insurer if the appeal is taken within ***sixty (60)***[~~thirty (30)~~] days of ***its receipt of notice of*** the action being appealed. Any final order of the commissioner shall be subject to judicial review as set forth in Subtitle 2 of this chapter and KRS Chapter 13B.

(4) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this subtitle.

Section 8. KRS 304.42-120 is amended to read as follows:

To aid in the detection and prevention of insurer insolvencies or impairments:

(1) It shall be the duty of the commissioner:

(a) To notify the commissioners of all of the other states, territories of the United States and the District of Columbia when he takes any of the following actions against a member insurer:

1. Revocation of license;
2. Suspension of license;
3. Makes any formal order that such company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of ***policy owners***[~~policyholders~~] or creditors.

Such notice shall be mailed to all commissioners within thirty (30) days following the action taken or the date on which such action occurs;

(b) To report to the board of directors when he has taken any of the actions set forth in paragraph (a) of this subsection or has received a report from any other commissioner indicating that any such action has been taken in another state. Such report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner;

(c) To report to the board of directors when he has reasonable cause to believe from any examination, whether completed or in process, of any member ***insurer***[~~company~~] that such ***insurer***[~~company~~] may be an impaired or insolvent insurer;

(d) To furnish to the board of directors the NAIC insurance regulatory information system information developed by the National Association of Insurance Commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. Such report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

(2) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting his duties and responsibilities regarding the financial condition of member companies and companies seeking admission to transact insurance business in this state.

(3) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations shall not be considered public documents.

(4) [~~It shall be the duty of~~]The board of directors ***may***, upon majority vote,[~~ to~~] notify the commissioner of any information indicating any member insurer may be an impaired or insolvent insurer.

(5)[~~ The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within thirty (30) days of the receipt of such request, the commissioner shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners' examination or may be conducted by such persons as the commissioner designates. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subsection (1) of this section. The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public.~~

~~(6)~~] The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

[~~(7) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the commissioner containing such information as it may have in its possession bearing on the history and causes of such insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes for insolvency of a particular insurer, and may adopt by reference any report prepared by such other associations.~~]

Section 9. KRS 304.42-140 is amended to read as follows:

(1) Nothing in this subtitle shall be construed to reduce the liability for unpaid assessments of the insureds on an impaired or insolvent insurer operating under a plan with assessment liability.

(2) Records shall be kept of all ***meetings of the board of directors***[~~negotiations and meetings in which the association or its representatives are involved~~] to discuss the activities of the association in carrying out its powers and duties under KRS 304.42-080. ***The records of the association with respect to an impaired or insolvent insurer shall not be disclosed prior to***[~~Records of such negotiations or meetings shall be made public only upon~~] the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, ***prior to***[~~upon~~] the termination of the impairment or insolvency of the insurer, or ***prior to***[~~upon~~] the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the association to render a report of its activities under KRS 304.42-150.

(3) For the purpose of carrying out its obligations under this subtitle, the association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to subsection (8) of KRS 304.42-080. Assets of the impaired or insolvent insurer ***attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer*** as required by this subtitle. Assets attributable to covered policies, as used in this subsection, is that proportion of the assets which the reserves that should have been established for such policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(4) ***As a creditor of the impaired or insolvent insurer as established in subsection (3) of this section and consistent with KRS 304.33-440, the association and other similar associations shall be entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under this subtitle. If the liquidator has not, within one hundred twenty (120) days of a final determination of insolvency of an insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the association shall be entitled to make application to the receivership court for approval of its own proposal to disburse these assets.***

(5) (a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders and policyowners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such insolvent insurer. In such a determination, consideration shall be given to the welfare of the ***policy owners***[~~policyholders~~] of the continuing or successor insurer;

(b) No distribution to stockholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the association for funds expended in carrying out its powers and duties under KRS 304.42-080 with respect to such insurer have been fully recovered by the association.

(6)[~~(5)~~] (a) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five (5) years preceding the petition for liquidation or rehabilitation subject to the limitations of paragraphs (b) to (d) of this subsection;

(b) No such ***distribution***[~~dividend~~] shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations;

(c) Any person who was an affiliate that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared, shall be liable up to the amount of distributions ***which***[~~he~~] would have ***been*** received if they had been paid immediately. If two (2) persons are liable with respect to the same distributions, they shall be jointly and severally liable;

(d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer;

(e) If any person liable under paragraph (c) of this subsection is insolvent, all its affiliates that controlled it at the time the dividend was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

Section 10. KRS 304.42-150 is amended to read as follows:

The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner, not later than May 1 of each year, a financial report for the preceding calendar year in a form approved by the commissioner and a report of its activities during the preceding calendar year. ***Upon the request of a member insurer, the association shall provide the member insurer with a copy of the report.***

Section 11. KRS 304.42-170 is amended to read as follows:

There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the association or its agents or employees, members of the board of directors, or the commissioner or his representatives, for any action taken by them in the performance of their powers and duties under this subtitle. ***Immunity shall extend to the participation in any organization of one (1) or more other state associations of similar purposes and to any such organization and its agents or employees.***

HB 739, AN ACT relating to liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly that a statewide computerized lien information system be created to accumulate, index, and disseminate information relative to liens and related filings made with the Secretary of State according to Article 9 of KRS Chapter 355.

(2) The Kentucky Lien Information System is hereby created and established as a division within the Department of State.

(3) The Kentucky Lien Information System shall be operational beginning on January 4, 1999.

SECTION 2. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 355 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding a filing made to perfect a security interest in the place set forth in KRS 355.9-401, a secured party shall file a financing statement, or any amendment, assignment, continuation, release, or termination related thereto, in the Office of the Secretary of State. The financing statement, amendment, assignment, continuation, release, or termination filed under this section shall be on a form prescribed by the Secretary of State.

(2) The Secretary of State shall receive a fee of one dollar ($1) for the filing made under this section.

(3) The filing requirement of this section shall not apply when the collateral is timber to be cut or is minerals or the like, including oil and gas, other than coal, or accounts subject to subsection (5) of KRS 355.9-103, other than accounts arising out of the sale of coal, or when the financing statement is filed as a fixture filing under KRS 355.9-313 and the collateral is goods which are or are to become fixtures.

(4) The Secretary of State shall index all filings made under this section for inclusion in the Kentucky Lien Information System.

Section 3. KRS 355.9-105 is amended to read as follows:

(1) In this article unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) "Document" means document of title as defined in the general definitions of Article 1 (KRS 355.1-201) and a receipt of the kind described in subsection (2) of KRS 355.7-201;

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (KRS 355.9-313), but does not include money, documents, instruments, investment property, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops;

(i) ***"Identification number" means a distinct alpha, numeric, or alphanumeric designation assigned to a person. The identification number for a person who is other than an individual shall be the Internal Revenue Service taxpayer identification number of the person. If the person is an individual, the identification number shall be the person's Social Security number or a number assigned in accordance with administrative regulations promulgated by the Secretary of State;***

(j) "Instrument" means a negotiable instrument (defined in KRS 355.3-104), or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment. The term does not include investment property;

(k)[~~(j)~~] "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(l)[~~(k)~~] An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(m)[~~(l)~~] "Security agreement" means an agreement which creates or provides for a security interest;

(n)[~~(m)~~] "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party;

(o) "System" means the Kentucky Lien Information System created in Section 1 of this Act.

(2) Other definitions applying to this article and the sections in which they appear are:

"Account." KRS 355.9-106;
"Attach." KRS 355.9-203;
"Commodity contract." KRS 355.9-115;
"Commodity customer." KRS 355.9-115;
"Commodity intermediary." KRS 355.9-115;
"Construction mortgage." KRS 355.9-313(1);
"Consumer goods." KRS 355.9-109(1);
"Control." KRS 355.9-115;
"Equipment." KRS 355.9-109(2);
"Farm products." KRS 355.9-109(3);
"Fixture." KRS 355.9-313(1);
"Fixture filing." KRS 355.9-313(1);
"General intangibles." KRS 355.9-106;
"Inventory." KRS 355.9-109(4);
"Investment property." KRS 355.9-115:
"Lien creditor." KRS 355.9-301(3);
"Proceeds." KRS 355.9-306(1);
"Purchase money security interest." KRS 355.9-107;
"United States." KRS 355.9-103.

(3) The following definitions in other articles apply to this article:

"Broker." KRS 355.8-102;
"Certificated security." KRS 355.8-102;
"Check." KRS 355.3-104;
"Clearing corporation." KRS 355.8-102;
"Contract for sale." KRS 355.2-106;
"Control." KRS 355.8-106;
"Delivery." KRS 355.8-301;
"Entitlement holder." KRS 355.8-102;
"Financial asset." KRS 355.8-102;
"Holder in due course." KRS 355.3-302;
"Note." KRS 355.3-104;
"Sale." KRS 355.2-106;
"Securities intermediary." KRS 355.8-102;
"Security." KRS 355.8-102;
"Security certificate." KRS 355.8-102;
"Security entitlement." KRS 355.8-102;
"Uncertificated security." KRS 355.8-102.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 4. KRS 355.9-402 is amended to read as follows:

(1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address ***and identification number*** of the debtor, and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise

attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned and must describe the production season. If the production season is not described, the financing statement shall be deemed to describe the crops produced in the production season which ends within twelve (12) months after the filing date of the financing statement. A financing statement shall not describe more than one (1) production season. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas), other than coal, or accounts subject to subsection (5) of KRS 355.9-103, other than accounts arising out of the sale of coal, or when the financing statement is filed as a fixture filing (KRS 355.9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state or in any other state.

(2) A financing statement which otherwise complies with subsection (1) of this section is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in:

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state, or that the debtor's location was changed to this state under such circumstances; or

(b) Proceeds under KRS 355.9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) Collateral as to which the filing has lapsed; or

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7) of this section).

(3) A form substantially as follows is sufficient to comply with subsection (1) of this section:

Name of debtor (or assignor) ....

Address ....

Name of secured party (or assignee) ....

Address ....

(a) This financing statement covers the following types (or items) of property:

(Describe) ....

(b) (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe real estate) ....

(c) (If applicable) The above goods are to become fixtures on (or) The above timber is standing on (or) The above minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on:

(Describe real estate) ....

and this financing statement is to be filed in the same office as the real estate records. (If the debtor does not have an interest of record) The name of a record owner is ....

(d) (If products of collateral are claimed) Products of the collateral are also covered.

Signature of debtor (or assignor) ....

Signature of secured party (or assignee) ....

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas), other than coal, or accounts subject to subsection (5) of KRS 355.9-103, other than accounts arising out of the sale of coal, or a financing statement filed as a fixture filing (KRS 355.9-313), must show that it covers this type of collateral, must recite that it is to be filed in the same office as the real estate records, and the financing statement must contain a description of the real estate. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if:

(a) The goods are described in the mortgage by item or type;

(b) The goods are or are to become fixtures related to the real estate described in the mortgage;

(c) The mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records; and

(d) The mortgage is duly recorded.

No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the debtor notifies the secured party in writing of the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

Section 5. KRS 355.9-403 is amended to read as follows:

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) Except as provided in subsection (6) of this section a filed financing statement is effective for a period of five (5) years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five (5) year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty (60) days or until expiration of the five (5) year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six (6) months prior to the expiration of the five (5) year period specified in subsection (2) of this section. Any such continuation statement must be signed by the secured party, identify the original statement by file number and date filed***, contain the identification number of the debtor,*** and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of KRS 355.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five (5) years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) of this section unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one (1) year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other relating filings, or by other means, that if he physically destroys the financing statements of a period more than five (5) years past, those which have been continued by a continuation statement or which are still effective under subsection (6) of this section shall be retained.

(4) Except as provided in subsection (7) of this section a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing and indexing an original or a continuation statement shall be as provided for in KRS 64.012. This fee includes the fee for filing and indexing a termination statement and for sending or delivering the terminated instrument and financing statement.

(6) A real estate mortgage which is effective as a fixture filing under subsection (6) of KRS 355.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas), other than coal, or accounts subject to subsection (5) of KRS 355.9-103, other than accounts arising out of the sale of coal, or is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

Section 6. KRS 355.9-404 is amended to read as follows:

(1) Whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement ***that states***~~[to the effect]~~ that he no longer claims a security interest under the financing statement, ***contains the identification number of the debtor,*** and ***identifies***~~[identify]~~ the original statement by file number and date filed. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of KRS 355.9-405, including payment of the required fee. The uniform fee for filing and indexing such an assignment or statement thereof shall be three dollars ($3). If the affected secured party fails to file such termination statement as required by this subsection, or to send such a termination statement within ten (10) days after proper demand therefor he shall be liable to the debtor for one hundred dollars ($100), and in addition for any loss caused to the debtor by such failure.

(2) In the absence of a demand by the debtor for a statement of termination, and within fifteen (15) days after a secured transaction evidenced by record in the county clerk's or Secretary of State's office has terminated, the secured party must file with each filing officer with whom the financing statement was filed a termination statement to the effect that he no longer claims a security interest under the financing statement or other instrument, which shall be identified by file number and date filed. If the actual secured party willfully fails to send such a termination statement within fifteen (15) days after he no longer claims a security interest, he shall be liable to the debtor for twenty-five dollars ($25), and in addition for any loss caused to the debtor by such failure.

(3) On presentation to the filing officer of such a termination statement he must note it in the index. If he has received the termination statement in duplicate, he shall return one (1) copy of the termination statement to the secured party stamped to show the time of receipt thereof. Whenever a statement required under this chapter need be sent to a party to the transaction by the filing officer, it shall be sufficient for the filing officer to send the statement to the party entitled to receive it, at his last known address. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, he may remove the originals from the files at any time after receipt of the termination statement, or if he has no such record, he may remove them from the files at any time after one (1) year after receipt of the termination statement.

(4) The uniform fee for filing and indexing a termination statement for any financing statement filed prior to July 1, 1966, for which a termination fee was not paid when the financing statement was filed and for sending or delivering the terminated instrument and for sending or delivering the financing statement shall be three dollars ($3).

Section 7. KRS 355.9-405 is amended to read as follows:

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in KRS 355.9-403(4). The uniform fee for filing and indexing a financing statement so indicating an assignment shall be as provided in KRS 64.012.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, ***the identification number of the debtor,*** the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of filing. He shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas), other than coal, or accounts subject to subsection (5) of KRS 355.9-103, other than accounts arising out of the sale of coal, he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing and indexing such a separate statement of assignment shall be as provided in KRS 64.012. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of KRS 355.9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this chapter.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

Section 8. KRS 355.9-406 is amended to read as follows:

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, ***the identification number of the debtor,*** the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of KRS 355.9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be as provided for in KRS 64.012.

Section 9. KRS 355.2A-103 is amended to read as follows:

(1) In this article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease with respect to which:

1. The lessor does not select, manufacture, or supply the goods;

2. The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

3. One of the following occurs:

a. The lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

b. The lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

c. The lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

d. If the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (b) that the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (KRS 355.2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"Accessions." KRS 355.2A-310(1).

"Construction mortgage." KRS 355.2A-309(1)(d).

"Encumbrance." KRS 355.2A-309(1)(e).

"Fixtures." KRS 355.2A-309(1)(a).

"Fixture filing." KRS 355.2A-309(1)(b).

"Purchase money lease." KRS 355.2A-309(1)(c).

(3) The following definitions in other articles apply to this article:

"Account." KRS 355.9-106.

"Between merchants." KRS 355.2-104(3).

"Buyer." KRS 355.2-103(1)(a).

"Chattel paper." KRS 355.9-105(1)(b).

"Consumer goods." KRS 355.9-109(1).
"Document." KRS 355.9-105(1)(f).
"Entrusting." KRS 355.2-403(3).
"General intangibles." KRS 355.9-106.
"Good faith." KRS 355.2-103(1)(b).
"Instrument." KRS 355.9-105(1)***(j)***[~~(i)~~].
"Merchant." KRS 355.2-104(1).
"Mortgage." KRS 355.9-105(1)***(k)***[~~(j)~~].
"Pursuant to commitment." KRS 355.9-105(1)***(l)***[~~(k)~~].
"Receipt." KRS 355.2-103(1)(c).
"Sale." KRS 355.2-106(1).
"Sale on approval." KRS 355.2-326.
"Sale or return." KRS 355.2-326.
"Seller." KRS 355.2-103(1)(d).

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

HJR 60, A JOINT RESOLUTION directing the Department of Insurance to conduct a comprehensive study of credit health and credit life insurance.

WHEREAS, it is the responsibility of the General Assembly to guarantee the efficient regulation of the insurance industry within the Commonwealth for the protection of the citizens of the Commonwealth; and

WHEREAS, there have been major changes in the insurance industry since the passage of the current insurance code, KRS Chapter 304, pertaining to credit life and health insurance, as well as a development in consumer issues in credit health and life insurance coverage, all of which require that the current provisions be studied in order to assure the sound regulation of the insurance industry and the efficient protection of the public;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Department of Insurance is directed to conduct a comprehensive study of the issue of credit health insurance and credit life insurance, including a review of KRS Chapter 304 Subtitle 19, for the purposes of identifying the need to revise or amend Subtitle 19 of KRS Chapter 304.

Section 2. The Department of Insurance shall report the results of its review to the Interim Joint Committee on Banking and Insurance no later than 180 days prior to the convening of the Kentucky General Assembly's regular session in the year 2000.

The Committee Substitute to **HJR 60** is as follows:

A JOINT RESOLUTION directing the Department of Insurance to conduct a comprehensive study of credit health and credit life insurance.

WHEREAS, it is the responsibility of the General Assembly to guarantee the efficient regulation of the insurance industry within the Commonwealth for the protection of the citizens of the Commonwealth; and

WHEREAS, there have been major changes in the insurance industry since the passage of the current insurance code, KRS Chapter 304, pertaining to credit life and health insurance, as well as a development in consumer issues in credit health and life insurance coverage, all of which require that the current provisions be studied in order to assure the sound regulation of the insurance industry and the efficient protection of the public;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Department of Insurance is directed to conduct a comprehensive study of the issue of credit health insurance and credit life insurance, including a review of KRS Chapter 304 Subtitle 19, for the purposes of identifying the need to revise or amend Subtitle 19 of KRS Chapter 304.

Section 2. The Department of Insurance shall report the results of its review to the Interim Joint Committee on Banking and Insurance no later than 180 days prior to the convening of the Kentucky General Assembly's regular session in the year 2000.

Section 3. The commissioner shall establish a task force to review and advise the commissioner concerning the comprehensive study of credit life insurance and credit health insurance.

(1) The task force shall consist of the commissioner and twelve (12) members appointed by the commissioner. The commissioner shall serve as chair of the task force.

(2) The twelve (12) persons appointed by the commissioner shall be:

(a) One (1) representative of banks;
(b) One (1) representative of automobile dealers;
(c) One (1) representative of finance companies;
(d) One (1) retailer that offers credit life insurance or credit health insurance to customers;
(e) Two (2) consumers;
(f) One (1) agent holding a resident license issued by the department;
(g) Two (2) insurers offering credit life insurance or credit health insurance;
(h) Two (2) attorneys whose legal practice consists primarily of litigating insurance matters; and
(i) The commissioner of the Department of Financial Institutions.

The Committee on Appropriations and Revenue reported **HB 45** and **HB 122**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 266,** with Committee Substitute and Committee Amendment attached thereto, **HB 550,** with Committee Amendments attached thereto, and **HB 648** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 266, AN ACT relating to utility gross receipts taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.613 is amended to read as follows:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the county, of telephonic and telegraphic communications services, electric power, water, and natural, artificial, and mixed gas. "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include:

(a) Amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production;~~[, and shall not include]~~

(b) Amounts received for furnishing any of the above utilities which are to be resold;

(c) Amounts received from elementary and secondary church schools, as defined in KRS 159.030, elementary and secondary parochial schools, or elementary and secondary private schools that are accredited by a national or regional accrediting association; and

(d) Amounts received from churches, for the provision of utilities to places actually used for religious worship.

(2) In the event that any user of ***telephonic and telegraphic communications services,*** electrical ***power, water, and natural, artificial, or mixed gas*** purchases the ***telephonic and telegraphic communications services,***~~[energy]~~ electrical ***power, water, and natural, artificial, or mixed gas***~~[energy]~~ directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax under the provisions of subsection (1) of this section, then the consumer, if such tax has been levied in his district, shall be liable for the tax and shall pay directly to the county finance officer, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all ***telephonic and telegraphic communications services,*** electrical ***power, water, and natural, artificial, or mixed gas***~~[energy]~~ received by the tax rate levied under the provisions of this section.

(3) Gross cost shall be construed in such a way that the consumer shall pay taxes on the same base as that on which a seller who comes within the provisions of subsection (1) of this section is paying.

Section 2. KRS 160.617 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 278.040(2), any utility required to pay the tax authorized by KRS 160.613 may increase its rates in any county in which it is required to pay the school tax by three percent (3%). Any utility so increasing its rates shall separately state on the bills sent to its customers the amount of such increase and shall identify such amount as: "Rate increase for school tax."

(2) The rate increase provided for in subsection (1) of this section shall not apply to rates paid by entities, the gross receipts from which are excluded from the utilities gross receipts tax by Section 1 of this Act.

The Committee Substitute to **HB 266** is as follows:

AN ACT relating to utility gross receipts taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.613 is amended to read as follows:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the county, of telephonic and telegraphic communications services, electric power, water, and natural, artificial, and mixed gas. "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production, and shall not include amounts received for furnishing any of the above utilities which are to be resold.

(2) In the event that any user of ***telephonic and telegraphic communications services,*** electrical ***power, water, and natural, artificial, or mixed gas*** purchases the ***telephonic and telegraphic communications services,***[~~energy~~] electrical ***power, water, and natural, artificial, or mixed gas***[~~ energy~~] directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax under the provisions of subsection (1) of this section, then the consumer, if such tax has been levied in his district, shall be liable for the tax and shall pay directly to the county finance officer, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all ***telephonic and telegraphic communications services,*** electrical ***power, water, and natural, artificial, or mixed gas***[~~energy~~] received by the tax rate levied under the provisions of this section.

(3) Gross cost shall be construed in such a way that the consumer shall pay taxes on the same base as that on which a seller who comes within the provisions of subsection (1) of this section is paying.

Section 2. KRS 160.617 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 278.040(2), any utility required to pay the tax authorized by KRS 160.613 may increase its rates in any county in which it is required to pay the school tax by three percent (3%). Any utility so increasing its rates shall separately state on the bills sent to its customers the amount of such increase and shall identify such amount as: "Rate increase for school tax."

(2) The rate increase provided for in subsection (1) of this section shall not apply to rates paid by entities, the gross receipts from which are excluded from the utilities gross receipts tax by Section 1 of this Act.

The Committee Amendment No. 1 to **HB 266** is as follows:

On page 2, line 4, by deleting "***(1)***"; and

On page 2, by deleting lines 9 through 11 in their entirety.

HB 550, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	***$2,500.00***[~~$1,500.00~~]
(2)	Rectifier's license, per annum	***$2,500.00***[~~$1,500.00~~]
(3)	Blender's license, per annum	***$1,000.00***[~~$1,500.00~~]
(4)	Vintner's license, per annum	***$1,000.00***[~~$ 500.00~~]
(5)	Small winery license, per annum	***$100.00***[~~$ 25.00~~]
	(a) Small winery off-premises retail license, per annum	$25.00
(6)	Wholesaler's license, per annum	***$2,000.00***[~~$1,500.00~~]
(7)	Retail package license, per annum:	

(a)	In counties containing cities of the first class	***$800.00***[~~$ 600.00~~]
(b)	In counties containing cities of the second class	***$700.00***[~~$ 500.00~~]
(c)	In counties containing cities of the third class	***$600.00***[~~$ 400.00~~]
(d)	In counties containing cities of the fourth class	***$500.00***[~~$ 300.00~~]
(e)	In all other counties	***$400.00***[~~$ 200.00~~]
(8)	Retail drink license, ***motel drink license, restaurant drink license, or supplemental bar license,*** per annum:	
(a)	In counties containing cities of the first class	***$1,000.00***[~~$ 800.00~~]
(b)	In counties containing cities of the second class	***$700.00***[~~$ 500.00~~]
(c)	In counties containing cities of the third class	***$600.00***[~~$ 400.00~~]
(d)	In counties containing cities of the fourth class	***$500.00***[~~$ 300.00~~]
(9)	Transporter's license, per annum	***$100.00***[~~$ 25.00~~]
(10)	Dining car license, per annum	***$100.00***[~~$ 50.00~~]
(11)	Special nonbeverage alcohol vendor's license, per annum	***$50.00***[~~$ 25.00~~]
(12)	Special industrial alcohol license, per annum	***$50.00***[~~$ 25.00~~]
(13)	Special nonindustrial alcohol license, per annum	***$50.00***[~~$ 25.00~~]
(14)	Special agent's or solicitor's license, per annum	***$25.00***[~~$ 20.00~~]
(15)	Special storage or warehouse license ***and bottling house storage license,*** per annum	***$500.00***[~~$ 100.00~~]
(16)	Special temporary ***liquor*** license, per ***event***	***$100.00***
	[~~month or part of month,~~	~~one sixth (1/6) of the fees enumerated in subsection (7).~~]
(17)	Special private club license, per annum	***$300.00***[~~$ 150.00~~]
(18)	Special Sunday retail drink license***, per annum***	***$500.00***[~~$ 300.00~~]
(19)	Nonresident, special agent or solicitor's license, per annum	***$100.00***[~~$ 20.00~~]
(20)	Transport permit, nonresident license, per annum	***$100.00***[~~$ 25.00~~]
(21)	Through transporter's license, per annum	***$100.00***[~~$ 25.00~~]
(22)	Freight forwarder's license, per annum	***$100.00***[~~$ 25.00~~]
(23)[	~~Supplemental bar license:~~	
~~(a)~~	~~In counties containing cities of the first class~~	~~$ 800.00~~
~~(b)~~	~~In counties containing cities of the second class~~	~~$ 500.00~~
~~(c)~~	~~In counties containing cities of the third class~~	~~$ 400.00~~
~~(24)~~]	Restaurant wine license, per annum	***$500.00***
[~~(a)~~	~~New applicants~~	~~$ 300.00~~
~~(b)~~	~~Renewals~~	~~$ 200.00~~]
(24)[~~(25)~~]	Farm winery license, per annum	***$100.00***[~~$ 25.00~~]
(a)	Farm winery***, off-premises*** retail outlet license***, per annum***	***$25.00***[~~$ 5.00~~]
(25)[~~(26)~~]	Special temporary wine license***, per event***	***$50.00***[~~$ 25.00~~]
(26)[~~(27)~~]	Caterer's license, per annum	***$800.00***[~~$ 400.00~~]
(27)[~~(28)~~]	Souvenir retail liquor license, per annum	$500.00
(28)[~~(29)~~]	Special temporary distilled spirits and wine auction license***, per event***	$100.00
(29)	***Airport drink license, per annum***	***$1,000.00***
(30)	***Convention center or convention hotel complex license, per annum***	***$5,000.00***
(31)	***Extended hours, supplemental license, per annum***	***$2,000.00***
(32)	***Horse race track license, per annum***	***$2,000.00***
(33)	***Air or rail system license, per annum***	***$2,000.00***

(34)	***Riverboat license, per annum***	***$1,000.00***
(35)	***Bottling house license, per annum***	***$1,000.00***
(36)	***Hotel in-room license, per annum***	***$200.00***
(37)	***Bonded warehouse license, per annum***	***$1,000.00***
(38)	***Air transporter liquor license, per annum***	***$500.00***
(39)	***Replacement or duplicate license***	***$25.00***

(40) [~~Such ~~]Other special ***licenses***[~~license as~~] the board ***finds***[~~may find~~] necessary for the proper regulation and control of the traffic in distilled spirits and wine and ***provides***[~~may provide~~] for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), and (39). The application fee shall be applied to the licensing fee if the application is issued, and shall be retained by the department if the license is denied.

Section 2. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1)	Brewer's license, per annum	***$500.00***[~~$1,500.00~~]
(2)	Microbrewery license, per annum	***$500.00***[~~$ 250.00~~]
(3)	Distributor's license, per annum	***$500.00***[~~$ 200.00~~]
(4)	***Malt beverage retail***[~~Retailer's~~] license***,*** per annum:	
	(a) New applicants	$200.00
	(b) Renewals	***$150.00***[~~$ 75.00~~]
(5)	Dining car license, per annum	***$200.00***[~~$ 100.00~~]
(6)	Transporter's license, per annum	***$100.00***[~~$ 25.00~~]
(7)	Special temporary license, per event	***$50.00***[~~$ 12.50~~]
(8)	Special off-premises ***retail*** storage license, per annum	***$100.00***[~~$ 25.00~~]
(9)	Distributor's storage, per annum	***$250.00***[~~$ 50.00~~]
(10)	Special beer transporter's license, per annum	***$100.00***[~~$ 25.00~~]
(11)	***Brew-on-premises license, per annum***	***$500.00***
(12)	***Out-of-state brewer license, per annum***	***$1,500.00***
(13)	***Malt beverage warehouse license, per annum***	***$1,000.00***
(14)	***Replacement or duplicate license, per annum***	***$25.00***

(15) [~~Such ~~]Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, ***as***[~~which may be~~] provided for by ***administrative regulations promulgated***[~~regulation and adopted~~] by the state board.

Applicants for special licenses provided for under the authority granted in subsection ***(15)***[~~(11)~~] may be exempt from so much of the provisions of subsection ***(1)(e)***[~~(3)~~] of KRS 243.100 ***set out in administrative regulations promulgated by***[~~and paragraph (c) of subsection (1) of KRS 244.090 as~~] the board[~~ by regulation prescribes~~]. ***A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application for a license under this section except for subsections (6), (7), (10), and (14). The application fee shall be applied to the licensing fee when the application is issued, or retained by the department if the license is denied.***

Section 3. KRS 243.025 is amended to read as follows:

All[~~Twenty-five percent (25%)~~] of the fees paid into the State Treasury for licenses ***issued under Sections 1 and 2 of this Act***[~~permitting the sale of distilled spirits and wine at retail by the package and by the drink and restaurant wine licenses~~] shall be credited to a revolving trust and agency account, as provided in KRS 45.253, for the Department of Alcoholic Beverage Control. These moneys shall be used solely for the administration and enforcement of KRS Chapters 241, 242, 243, and 244. The moneys in the account shall not lapse at the close of the fiscal year.

Section 4. KRS 243.060 is amended to read as follows:

(1) The fiscal court of each county in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of trafficking in alcoholic beverages. ***These***[~~Only such~~] licenses may be issued ***by***

the county administrator~~[as correspond, in their provisions and the business authorized, to distilled spirits and wine retail package licenses, distilled spirits and wine retail drink licenses, restaurant wine licenses and malt beverage retailers' licenses]~~. The license fees shall not exceed *the following:*

(a) Retail package licenses, per annum:	
1. In counties containing cities of the first class	*$1,200.00*
2. In counties containing cities of the second class	*$1,000.00*
3. In counties containing cities of the third class	*$800.00*
4. In counties containing cities of the fourth class	*$600.00*
5. In all other counties	*$400.00*
(b) Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:	
1. In counties containing cities of the first class	*$1,600.00*
2. In counties containing cities of the second class	*$1,000.00*
3. In counties containing cities of the third class	*$800.00*
4. In counties containing cities of the fourth class	*$600.00*
(c) Special temporary liquor license, per event:	
1. In counties containing cities of the first class	*$266.66*
2. In counties containing cities of the second class	*$166.66*
3. In counties containing cities of the third class	*$133.34*
4. In counties containing cities of the fourth class	*$100.00*
(d) Restaurant wine license, per annum:	
1. New applicants	*$600.00*
2. Applicants for renewal	*$400.00*
(e) Special temporary wine license, per event	*$50.00*
(f) Special private club license, per annum	*$300.00*
(g) Special Sunday retail drink license, per annum	*$300.00*
(h) Retail malt beverage license, per annum:	
1. New applicants	*$400.00*
2. Applicants for renewal	*$150.00*
(i) Special temporary malt beverage license, per event	*$25.00*

~~[twice the amount of the fees imposed in KRS 243.030 and 243.040 for such licenses except that the fee for a Sunday distilled spirits and wine retail drink license shall not exceed three hundred dollars ($300).]~~

(2) Any amount paid to any city within the county as a license fee for the same privilege for the same year may be credited against the county license fee.

(3) If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.

Section 5. KRS 243.070 is amended to read as follows:

The city legislative body of any city in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may *issue the following licenses*~~[impose license fees]~~ for the privilege of manufacturing and trafficking in alcoholic beverages. *The licenses may only be issued by the city administrator, and the fee shall not exceed the following:*

(1) Distilled spirit licenses as set forth in Section 1 of this Act:	
(a) Distiller's license, per annum	*$500.00*
(b) Rectifier's license, per annum	*$3,000.00*
(c) Blender's license, per annum	*$3,000.00*
(d) Wholesaler's distilled spirits and wine license, per annum	*$3,000.00*
(e) Distilled spirits and wine retail package license, per annum:	
1. In counties containing cities of the first class	*$1,200.00*
2. In counties containing cities of the second class	*$1,000.00*
3. In counties containing cities of the third class	*$800.00*
4. In counties containing cities of the fourth class	*$600.00*

5.	***In all other counties***	***$400.00***
(2)	***Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:***	
(a)	***In counties containing cities of the first class***	***$1,600.00***
(b)	***In counties containing cities of the second class***	***$1,000.00***
(c)	***In counties containing cities of the third class***	***$800.00***
(d)	***In counties containing cities of the fourth class***	***$600.00***
(3)	***Distilled spirits and wine special temporary liquor license, per event:***	
(a)	***In counties containing cities of the first class***	***$266.66***
(b)	***In counties containing cities of the second class***	***$166.66***
(c)	***In counties containing cities of the third class***	***$133.33***
(d)	***In counties containing cities of the fourth class***	***$100.00***
(4)	***Special temporary wine license, per event***	***$50.00***
(5)	***Distilled spirits and wine special temporary auction license, per event***	***$200.00***
(6)	***Special private club license, per annum***	***$300.00***
(7)	***Distilled spirits and wine special Sunday retail drink license, per annum***	***$300.00***
(8)	***Extended hours supplemental license, per annum***	***$2,000.00***
(9)	***Nonresident special agent or solicitor's license, per annum***	***$40.00***
(10)	***Restaurant wine license, per annum:***	
(a)	***New applicants***	***$600.00***
(b)	***Applicants for renewal***	***$400.00***
(11)	***Caterer's license, per annum***	***$800.00***
(12)	***Riverboat license, per annum***	***$1,200.00***
(13)	***Horse race track license, per annum***	***$2,000.00***
(14)	***Convention center or convention hotel complex license, per annum***	***$2,000.00***
(15)	***Bottling house distilled spirits license or wine storage license, per annum***	***$1,000.00***
(16)	***Souvenir retail liquor license, per annum***	***$1,000.00***
(17)	***Malt beverage licenses as follows:***	
(a)	***Brewer's license, per annum***	***$500.00***
(b)	***Microbrewery license, per annum***	***$500.00***
(c)	***Malt beverage distributor's license, per annum***	***$400.00***
(d)	***Retail malt beverage license, per annum***	***$200.00***
(e)	***Special temporary retail malt beverage license, per event***	***$25.00***
(f)	***Malt beverage brew-on-premises license, per annum***	***$100.00***

[~~Only such licenses may be issued as correspond, in their provisions and the business authorized, to the licenses provided for in subsections (1), (2), (3), (6), (7), (8), (16), (17), (18), (19), (23), (24), (26), (27), (28), and (30) of KRS 243.030 and subsections (1), (2), (3), (4), (7), and (11) of KRS 243.040. The fees imposed shall not exceed twice the amount of the fees imposed in KRS 243.030 and 243.040 for such licenses, except that the fee for a Sunday distilled spirits and wine retail drink license shall not exceed three hundred dollars ($300), the fee for a malt beverage retailer's license shall not exceed two hundred dollars ($200), the fee for a brewer's license shall not exceed five hundred dollars ($500), and the fee for a distiller's license shall not exceed five hundred dollars ($500).~~]

Section 6. KRS 243.090 is amended to read as follows:

(1) All licenses issued ***by the department, except special event or temporary licenses, shall be valid for a period of no more than a year. All licenses shall expire on June 30 of each year until the licensee is notified by the department***

that a renewal system with staggered dates has been implemented. The department shall promulgate administrative regulations establishing the year-round system for renewal of licenses. The system shall be designed to distribute the workload as uniformly as possible within the offices of the local administrators and the department[~~under KRS 243.020 to 243.670 shall expire on June 30 of each year. The renewal by the department of the certificate or permit of any alcoholic beverage licensee shall not be construed to be a waiver or condonement of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee therefor~~].

(2) When any person applies for a ***new*** license authorized to be issued under KRS 243.020 to 243.670,[~~ after July 1 of any year,~~] he shall be charged***, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed***[~~, if the license is issued, an amount equal to as many twelfths of the annual license fee as there are calendar months, including the month in which the license is granted, until the following July 1, except that no license shall be issued for a shorter period than six (6) months~~]. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(3) The renewal by the department of the certificate or permit of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.

Section 7. KRS 243.035 is amended to read as follows:

In addition to the licenses prescribed by KRS 243.030, a bottling house license may be issued by the administrator of the Distilled Spirits Unit, ***upon payment of*** the fee ***set forth in Section 1 of this Act***[~~for which shall be five hundred dollars ($500) per annum~~]. The license may be issued only to persons who are authorized under this chapter to store or warehouse distilled spirits or wine. The bottling house license shall authorize the licensee to bottle distilled spirits on the premises designated in the license. The holder of a bottling house license may also hold a special storage or warehouse license.

Section 8. KRS 243.036 is amended to read as follows:

(1) A special temporary distilled spirits and wine auction license may be issued to a charitable organization, upon the payment of ***the***[~~a~~] fee ***set forth in Section 1*** of ***this Act***[~~one hundred dollars ($100)~~] and upon satisfaction of the requirements prescribed by administrative regulation promulgated by the department.

(2) A special temporary distilled spirits and wine auction license shall authorize the charitable organization to:

(a) Purchase, transport, receive, possess, store, sell, and deliver distilled spirits and wine to be sold at auction in the manner prescribed by administrative regulation promulgated by the department;

(b) Obtain distilled spirits and wine from distillers, rectifiers, vintners, wholesalers, distributors, retailers, or any other person, by gift or donation, for the purpose of charity auctions in the manner prescribed by administrative regulation promulgated by the department; and

(c) Receive payment for distilled spirits and wine sold at auctions in the manner prescribed by administrative regulation promulgated by the department.

(3) Each distilled spirits and wine auction conducted by a charitable organization shall be subject to all restrictions and limitations contained in KRS Chapters 241 to 244 and the administrative regulations issued ***under those chapters***[~~pursuant thereto~~], and shall be authorized only on the days and only during the hours that the sale of alcoholic beverages is otherwise authorized in the county or municipality.

(4) The location at which the distilled spirits and wine are auctioned ***under***[~~pursuant to~~] this section shall not constitute a public place for the purpose of KRS Chapter 222. Distilled spirits and wine auctions may be conducted on licensed or unlicensed premises. The charitable organization possessing a special temporary distilled spirits and wine auction license shall post a copy of the license at the location of the auction. During this period not more than one (1) auction shall be held.

(5) ***A***[~~No~~] special temporary distilled spirits and wine auction license shall ***not*** be issued for any period longer than thirty (30) days. During this period not more than one (1) auction shall be held.

(6) Notwithstanding any other provision of KRS Chapters 241 to 244, a distiller, rectifier, vintner, wholesaler, distributor, or retailer may donate, give away, or deliver any of its products to a charitable organization possessing a special temporary distilled spirits and wine auction license ***under***[~~pursuant to~~] this section.

(7) All restrictions and prohibitions applying to a distilled spirits and wine retail package and distilled spirits and wine by the drink license, not inconsistent with this section, shall apply to a special temporary distilled spirits and wine auction license.

Section 9. KRS 243.055 is amended to read as follows:

(1) As used in this section, the following definitions shall apply:

(a) "Hotel" means any hotel, motel, inn, or other establishment which offers overnight accommodations to the public for hire;

(b) "In-room service" means the delivery of alcoholic beverages in unbroken packages by an employee of the hotel to a registered guest's room when the alcoholic beverages have been ordered by a guest and when the guest shall be billed for the cost of the alcoholic beverages at the time of delivery, with all sales of the alcoholic beverages being completed upon delivery; and, additionally, the provision of a cabinet or other facility located in a hotel guest's room which contains alcoholic beverages and which is provided upon written request of the guest and which is accessible by lock and key or remote control device only to the guest, with the sale of the alcoholic beverages contained therein being final at the time requested, except for a credit which may be given to the guest for any unused portion. The licensee may stock a cabinet or other facility located in a hotel guest's room pursuant to this section, with fifty (50) milliliter containers of distilled spirits.

(2) The department may issue a hotel in-room service license to any hotel which is licensed to sell distilled spirits, wine, and malt beverages upon the payment of ***the***[~~a~~] fee ***set forth in Section 1*** of ***this Act***[~~one hundred dollars ($100)~~]. The license shall authorize the licensee to sell distilled spirits, wine, and malt beverages by in-room service. The sale of alcoholic beverages by in-room service shall be subject to all restrictions and limitations contained in KRS Chapters 241 to 244, and the administrative regulations issued ***under those chapters***[~~pursuant thereto~~], and shall be authorized only on the days and only during the hours as the sale of alcoholic beverages is otherwise authorized in the county or municipality. All alcoholic beverages sold pursuant to this section shall be considered by the drink sales and shall be subject to all state and local taxes imposed on alcoholic beverages and shall be purchased from a licensed wholesaler and distributor.

The Committee Amendment No. 1 to **HB 550** is as follows:

On page 6, line 26, by removing all brackets and strike throughs and deleting all new language.

The Committee Amendment No. 2 to **HB 550** is as follows:

On page 1, line 6, by changing "***$1,000.00***" to "***$2,500.00***"; and

On page 3, line 26, by changing "***$500.00***" to "***$2,500.00***".

HB 648, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.320 is amended to read as follows:

(1) Each life insurance company incorporated under the laws of and doing business in Kentucky shall value as of January 1 and report to the Revenue Cabinet[~~ by July 15, 1966, and~~] by April 1 each year[~~ thereafter~~], on forms prescribed by the Revenue Cabinet, the following:

(a) The fair cash value of the company's intangible personal property, hereinafter referred to as "capital," consisting of all money in hand, shares of stock, notes, bonds, accounts, and other credits, exclusive of due and deferred premiums, whether secured by mortgage, pledge, or otherwise, or unsecured.

(b) The fair cash value of the company's intangible personal property exempt from taxation by law.

(c) The aggregate amount of ***the*** company's reserves, reduced by the amount of due and deferred premiums, maintained in accordance with the applicable provisions of KRS 304.6-040 and 304.6-130 to 304.6-180, on all outstanding policies and contracts supplementary thereto.

(d) [~~Such ~~]Other information as may be required by the Revenue Cabinet to accurately determine the fair cash value of each company's "taxable capital" and "taxable reserves."

(2) Based on information supplied by each company and[~~ such~~] other information ***that***[~~as~~] may be available, the Revenue Cabinet shall value each company's "taxable capital" and "taxable reserves" as follows:

(a) "Taxable capital" shall be determined by deducting "taxable reserves" from "capital," less exempt intangible personal property.

(b) "Taxable reserves" shall be determined by multiplying the aggregate amount of reserves as computed in subsection (1)(c) of this section by the percentage determined by dividing "capital," less exempt intangible personal property, by "capital," including exempt intangible personal property.

(3) ***(a)*** An annual tax ***for state purposes shall be imposed against the fair cash value of "taxable capital" for calendar years beginning before 2000, at a rate*** of seventy cents ($0.70) on each one hundred dollars ($100)***.***[~~ of the fair cash value of "taxable capital" and~~]

(b) An annual tax for state purposes shall be imposed against every company making an election pursuant to

Section 3 of this Act to be taxed under this section, against the fair cash value of taxable capital for calendar years beginning in 2000 as follows:

1. For calendar year 2000, fifty-six cents ($0.56) on each one hundred dollars ($100);

2. For calendar year 2001, forty-two cents ($0.42) on each one hundred dollars ($100);

3. For calendar year 2002, twenty-eight cents ($0.28) on each one hundred dollars ($100);

4. For calendar year 2003, fourteen cents ($0.14) on each one hundred dollars ($100); and

5. For calendar year 2004 and each calendar year thereafter, one tenth of one cent ($0.001) on each one hundred dollars ($100).

(c) An annual tax for state purposes shall be imposed at a rate of one-tenth of one cent ($0.001) on each one hundred dollars ($100) of the fair cash value of "taxable reserves"~~[shall be imposed for state purposes]~~.

(d) Beginning in tax year 2004 an insurer may offset the tax liability imposed under this subsection against the tax liability imposed under subsection (4) of this section.

(4) For calendar year 2000, and each calendar year thereafter, every company subject to the tax imposed by subsection (3) of this section, and making an election pursuant to Section 3 of this Act to be taxed under this section, shall pay the following rates of tax upon each one hundred dollars ($100) of premium receipts:

(a) For calendar year 2000, thirty-eight cents ($0.38);

(b) For calendar year 2001, seventy-two cents ($0.72);

(c) For calendar year 2002, one dollar and two cents ($1.02);

(d) For calendar year 2003, one dollar and twenty-eight cents ($1.28); and

(e) For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50).

Every company subject to the tax imposed by this subsection shall, by March 1 of each year, return to the Revenue Cabinet a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, premiums received for original insurance, premiums received for renewal, revival, or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance but dividends on accident and health insurance policies may be deducted.

(5) The *taxes imposed under subsections (3) and (4) of this section*~~[tax]~~ shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district, except as provided in subsections *(6) and (7)*~~[(4), (5), and (6)]~~ of this section.

(6)~~[(4)]~~ The county in which the principal office of the company is located may impose a tax of fifteen cents ($0.15) on each one hundred dollars ($100) of "taxable capital."

(7)~~[(5)]~~ The city in which the principal office of the company is located may impose a tax of fifteen cents ($0.15) on each one hundred dollars ($100) of "taxable capital."

(8)~~[(6)]~~ The Revenue Cabinet shall by September 1 each year bill each company for the state taxes. It shall immediately certify to the county clerk of the county in which the principal office of the company is located the value of "taxable capital" subject to local taxation. The county clerk shall prepare and deliver a bill to the sheriff for collection of taxes collectible by the sheriff and shall certify the value to all other collecting officers of districts authorized to levy a tax.

(9)~~[(7)]~~ Each company's real and tangible personal property shall be subject to taxation at fair cash value by the state, county, school, and other taxing districts in which *the*~~[such]~~ property is located in the same manner and at the same rates as all other property of the same class.

(10)~~[(8)]~~ Taxes on property subject to taxation under this section shall be subject to the same discount and penalties as provided in KRS 134.020 and shall be collected in the same manner as taxes on property locally assessed, except that the state tax on the "taxable capital" and "taxable reserves" shall be collected directly by the Revenue Cabinet.

(11)~~[(9)]~~ Any taxpayer subject to taxation under this section may protest in the manner provided in KRS 131.110.

Section 2. KRS 136.330 is amended to read as follows:

(1) Every~~[foreign]~~ life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the Revenue Cabinet a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of

this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted. ***Premium receipts shall not include annuity premiums or annuity dividends beginning in calendar year 2000.***

(2) ***(a) An annual tax on premium receipts shall be imposed against every company making a return under this subsection for calendar years beginning before 2000 at a rate of***[~~Every company shall, at the time of making the return, pay a tax of~~] two dollars ($2) upon each one hundred dollars ($100) of[~~ such~~] premium receipts.

(b) An annual tax on premium receipts shall be imposed against every company making an election pursuant to Section 3 of this Act to be taxed under this section, and every company making a return under this section, for calendar years beginning in 2000 as follows:

1. For calendar year 2000, one dollar and ninety cents ($1.90) upon each one hundred dollars ($100) of premium receipts;

2. For calendar year 2001, one dollar and eighty cents ($1.80) upon each one hundred dollars ($100) of premium receipts;

3. For calendar year 2002, one dollar and seventy cents ($1.70) upon each one hundred dollars ($100) of premium receipts;

4. For calendar year 2003, one dollar and sixty cents ($1.60) upon each one hundred dollars ($100) of premium receipts; and

5. For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50) on each one hundred dollars ($100) of premium receipts.

(3)[~~ The 1962 amendment to this section shall be effective as of January 1, 1962, and shall apply to the premium taxes due and payable as shown on returns filed subsequent to that date.~~

~~(4)~~] The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and 18A.228 shall not be subject to taxation under this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

Beginning with calendar year 2000, every life insurance company incorporated under the laws of and doing business in Kentucky shall make an irrevocable election whether to be taxed under the provisions of Section 1 of this Act or Section 2 of this Act. For insurance companies incorporated under the laws of and doing business in Kentucky, prior to January 1, 2000, the election shall be filed with the commissioner of insurance and the secretary of the Revenue Cabinet on or before January 1, 2000. For insurance companies applying for a certificate to do business in Kentucky as a domestic life insurance company, after January 1, 2000, the election shall be filed with the company's initial application for certificate of authority to do business in Kentucky.

Section 4. KRS 136.377 is amended to read as follows:

(1) Any company whose tax, as provided in ***subsection (4) of Section 1 of this Act,*** KRS 136.330, 136.340, 136.350, 136.370 and 342.445 or 304.3-270 was five thousand dollars ($5,000) or more in the previous year shall file a declaration of estimated tax[~~ and remit one-third (1/3) of such amount on or before June 1, 1965, provided that if any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for such declaration no penalties or interest shall apply to any subsequent adjustments. The remainder of the tax shall be due on or before March 1, 1966~~].

(2) [~~As provided in subsection (1) of this section, but beginning in 1966, and each year thereafter, ~~]The tax due shall be paid in three (3) installments, one-third (1/3) on or before June 1, one-third (1/3) on or before October 1, and the remainder on or before the following March 1. Provided, however, if any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for such declaration no penalties or interest shall apply to any subsequent adjustments.

(3) Any adjustments may be made on or before October 1. All adjustments shall be made on or before March 1.

(4) All[~~ such~~] taxes not paid when due may be subject to a penalty of five percent (5%) per month, but not more than twenty-five percent (25%) penalty shall be assessed on any one (1) report, and interest at the tax interest rate as defined in KRS 131.010(6) from the date the report was due.

Section 5. KRS 304.42-130 is amended to read as follows:

(1) A member insurer, other than a[~~ domestic life insurance company or~~] nonprofit hospital, medical, surgical, dental or health service corporation, may offset its[~~ premium~~] tax liability to this state imposed against it[~~ either~~] under ***subsections (3) and (4) of Section 1 of this Act,*** KRS 136.330, 136.340, or 136.350, whichever may be applicable, ***against the***[~~an~~] assessment described in subsection (8) of KRS 304.42-090 to the extent of twenty percent (20%) of the amount of ***the***[~~such~~] assessment for each of the five (5) calendar years following the year in which ***the***[~~such~~] assessment was paid. ***If***[~~In the event~~] a member insurer should cease doing business, all uncredited assessments may be credited

against its[~~ premium~~] tax liability for the year in which it ceases doing business.

(2)[~~ A member insurer which is a domestic life insurance company may offset against its tax liability to this state imposed under KRS 136.320(3) an assessment described in subsection (8) of KRS 304.42-090 to the extent of twenty percent (20%) of the amount of such assessment for each of the five (5) calendar years following the year in which such assessment was paid. In the event a member insurer should cease doing business, all uncredited assessments may be credited against such tax liability for the year in which it ceases doing business.~~

~~(3)~~] Any sums acquired by refund, pursuant to subsection (6) of KRS 304.42-090, from the association which have theretofore been written off by contributing insurers and offset against[~~ such~~] taxes as provided in[~~ subsection (1), (2) or (3) of~~] this section, and are not then needed for purposes of this subtitle, shall be paid by the association to the commissioner and by him deposited with the State Treasurer for credit to the general fund of this state.

The Committee on Cities reported **HB 716,** with Committee Substitute attached thereto, **HB 722,** with Committee Substitute attached thereto, **HB 775, HB 783, HB 854,** and **SB 198** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 716, AN ACT relating to the building construction industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.130 is amended to read as follows:

(1) Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this chapter or the Uniform State Building Code, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation. An award may include damages and the cost of litigation, including reasonable attorney's fees.

(2) Any action based upon a claim of violation of this section shall be brought within one (1) year of the date on which the damage is discovered or in the exercise of reasonable diligence could have been discovered. However, in no event shall an action be brought under this section more than ten (10) years after the date of first occupation or settlement date, whichever is sooner.

(3) Nothing in this section shall be construed to limit any common law liability of a contractor or subcontractor or any right or cause of action against any contractor or subcontractor created by any other statute.

The Committee Substitute to **HB 716** is as follows:

AN ACT relating to the building construction industry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.130 is amended to read as follows:

(1) Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this chapter or the Uniform State Building Code, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation. An award may include damages and the cost of litigation, including reasonable attorney's fees.

(2) Any action based upon a claim of violation of this section shall be brought within one (1) year of the date on which the damage is discovered or in the exercise of reasonable diligence could have been discovered. However, in no event shall an action be brought under this section more than ten (10) years after the date of first occupation or settlement date, whichever is sooner.

(3) Nothing in this section shall be construed to bar any common law liability of a contractor or subcontractor or any right or cause of action against any contractor or subcontractor created by any other statute.

HB 722, AN ACT relating to city-owned or operated sanitary sewers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.150 is amended to read as follows:

(1) Any city that owns or operates a water supply or sanitary sewer system may extend the system into, and furnish and sell water and provide sanitary sewers to any person within, any territory contiguous to the city, and may install within that territory necessary apparatus; provided, however, that the extension of a water supply or sanitary sewer system shall not enter into any territory served by an existing water supply or sanitary sewer district unless such district requests the extension of water or sewer services from a city. For these purposes the city or sanitation authority established by an interlocal agreement may condemn or otherwise acquire franchises, rights, and rights-of-way, as private corporations may

do.

(2) When extending the system to any person, water district, or water association, the city may consider the installation of fire hydrants on the extended lines. The city may extend water lines which are incapable of servicing fire hydrants only if the city determines that servicing hydrants is not feasible. The determination shall include consideration of the incremental costs of adequately sized pipe and associated pumps and towers, and the benefits of real estate development, water sales, the availability of fire protection insurance, and the reduction in fire insurance premiums which may result from the installation of hydrants at specified intervals. When extending lines to a water district or water association, the determination may be made in consultation with the district or association, taking into consideration their fiscal capacity.

(3) When, in accordance with KRS 96.547, a city condemns land or acquires land through eminent domain in territories outside the city limits for the purpose of providing sanitary sewer services to other territories, the owner of the land shall be permitted to tap on to the sanitary sewer. The owner shall be responsible for the cost of the tap-on.

The Committee Substitute to **HB 722** is as follows:

AN ACT relating to city-owned or operated sanitary sewers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.150 is amended to read as follows:

(1) Any city that owns or operates a water supply or sanitary sewer system may extend the system into, and furnish and sell water and provide sanitary sewers to any person within, any territory contiguous to the city, and may install within that territory necessary apparatus; provided, however, that the extension of a water supply or sanitary sewer system shall not enter into any territory served by an existing water supply or sanitary sewer district unless such district requests the extension of water or sewer services from a city. For these purposes the city or sanitation authority established by an interlocal agreement may condemn or otherwise acquire franchises, rights, and rights-of-way, as private corporations may do.

(2) When extending the system to any person, water district, or water association, the city may consider the installation of fire hydrants on the extended lines. The city may extend water lines which are incapable of servicing fire hydrants only if the city determines that servicing hydrants is not feasible. The determination shall include consideration of the incremental costs of adequately sized pipe and associated pumps and towers, and the benefits of real estate development, water sales, the availability of fire protection insurance, and the reduction in fire insurance premiums which may result from the installation of hydrants at specified intervals. When extending lines to a water district or water association, the determination may be made in consultation with the district or association, taking into consideration their fiscal capacity.

(3) When, in accordance with KRS 96.547, a city condemns land or acquires land through eminent domain in territories outside the city limits for the purpose of sanitary sewer services, the owner of the land shall be permitted to tap on to the sanitary sewer. The owner shall be responsible for any tap-on fees, and other costs normally levied by the city in order to initiate and provide sanitary sewer service.

HB 775, AN ACT authorizing municipalities to enact and enforce juvenile curfew ordinances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context otherwise requires:

(1) "City" means any municipal corporation of any class incorporated in the Commonwealth, any urban-county government organized pursuant to KRS Chapter 67A, and any charter county government organized pursuant to KRS Chapter 67;

(2) "Juvenile" means any person under eighteen (18) years of age; and

(3) "Parent" means a biological or adoptive mother or father of a juvenile, a person who has been given legal custody of a juvenile, or a person who exercises custodial control or supervision over a juvenile, but does not necessarily have legal custody.

SECTION 2. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

In accordance with Sections 1 to 3 of this Act, any city may enact and enforce an ordinance establishing a juvenile curfew and making it unlawful for any juvenile to violate the terms of the ordinance. As it applies to juveniles, an ordinance enacted pursuant to the authority of Sections 1 to 3 of this Act shall be subject to the following conditions:

(1) A juvenile curfew ordinance shall establish clear standards in precise language adequate to apprise juveniles and parents of the conduct which constitutes a violation of the ordinance and which is adequate to circumscribe the discretion of police officers in order to overcome subjective or discriminatory enforcement;

(2) A juvenile curfew ordinance shall contain exceptions designed to permit juveniles to exercise constitutionally protected rights;

(3) A juvenile curfew ordinance shall not authorize a police officer to detain a juvenile for a violation of the ordinance for any period longer than reasonably necessary to issue to the juvenile a warning citation regarding the violation and to obtain the juvenile's name, address, telephone number, and other information necessary to allow the officer to identify, locate, and contact the juvenile's parent;

(4) A juvenile curfew ordinance shall not impose a penalty on a juvenile who has committed a violation of a juvenile curfew ordinance;

(5) A juvenile curfew ordinance may provide that upon the issuance of a third or subsequent warning citation to a juvenile for a violation of the ordinance, a status offense complaint may be filed charging the juvenile with the offense of violating the ordinance and this section. Upon the filing of a status offense complaint as authorized by this subsection, the juvenile shall be dealt with in accordance with the applicable provisions of the Kentucky Unified Juvenile Code, KRS Chapters 600 to 645.

SECTION 3. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

A juvenile curfew ordinance may make it unlawful for a parent to permit or allow a juvenile to engage in conduct which constitutes a violation of the ordinance. The ordinance may provide that it shall be no defense to a citation for a violation of the ordinance that the parent was without knowledge of or indifferent to the juvenile's activities or conduct which constituted the violation of the ordinance. The ordinance may establish penalties, as authorized by KRS 83A.065, which may be imposed on a parent found in violation of the ordinance.

Section 4. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(15) "Department" means the Department for Social Services;

(16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(20) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(21) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment;

(22) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(23) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(24) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(25) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(26) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(27) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(28) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(29) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(30) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(31) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(32) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(33) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(34) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(35) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(36) "Parent" means the biological or adoptive mother or father of a child;

(37) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(38) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(39) "Physical injury" means substantial physical pain or any impairment of physical condition;

(40) "Public offense action" means an action brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(41) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(42) "Residential treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(43) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(44) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(45) "Secretary" means the secretary of the Cabinet for Human Resources;

(46) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(47) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(48) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(49) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the

perpetrator or another person;

(50) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(51) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew ***except as provided in Sections 1 to 3 of this Act,*** or possession of alcoholic beverages;

(52) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(53) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(54) "Youth alternative center" means a nonsecure facility, approved by the Department of Corrections, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

(55) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

HB 783, AN ACT changing the classification of the City of Simpsonville, in Shelby County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Simpsonville, in Shelby County, is such as to justify its being classified as a city of the fifth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Simpsonville, in Shelby County, is transferred from the sixth to the fifth class of cities.

HB 854, AN ACT relating to liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.770 is amended to read as follows:

(1) It shall be unlawful for the owner, occupant or person having control or management of any land within a city***, county,*** or urban-county to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of rubbish or the excessive growth of weeds or grass.

(2) It shall be unlawful for the owner, occupant, or person having control or management of any land in an unincorporated area to knowingly permit a public nuisance or health hazard to develop thereon through the accumulation of rubbish.

(3) It shall be unlawful in any city, county, or urban-county for the owner of a property to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of the city, county, or urban-county.

(4) Any city, county, or urban-county may establish by ordinance reasonable standards and procedures for the enforcement of this section. The procedures shall comply with all applicable statutes, administrative regulations, or codes. Proper notice shall be given to property owners before any action is taken pursuant to this section; and, prior to the demolition of any unfit or unsafe structure, the right to a hearing shall be afforded the property owner.

(5) The city, county, or urban-county shall have a lien against the property for the reasonable value of labor and materials used in remedying the situation. The affidavit of the responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this statute, and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. ***If the city, county, or urban-county provides proper notice of the violation stated in subsections (1), (2), and (3) of this section to all lienholders of record and corrects the violation,*** the lien created shall take precedence over all other[~~ subsequent~~] liens, except state, county, school board, and city taxes, and may be enforced by judicial proceeding. ***If the city, county, or urban-county does not provide proper notice of the violation stated in subsections (1), (2), and (3) of this section to all lienholders of record before correcting the violation, then the lien shall only take precedence over all other subsequent liens, except state, county, school board, and city taxes. The lien may be enforced by***

judicial proceeding.

(6) In addition to the remedy prescribed in subsection (5) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the city, county, or urban-county may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

(7) The provisions of subsections (4), (5) and (6) of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant, or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of the rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto the property.

SB 198, AN ACT relating to city police and fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.869 is amended to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees. If there are no active members of the fund, the board of trustees shall consist of four (4) members who shall be: (a) the mayor ex officio; (b) the city treasurer ex officio; and (c) one (1) retired member of each department who shall be elected by ballot by the retired members of the respective departments***. The mayor ex officio and the city treasurer ex officio***~~[and]~~ shall serve for terms of one (1) year under rules adopted by the board. ***The two (2) retired members of the police and fire department shall serve for terms of at least one (1) year with a maximum of two (2) years under rules adopted by the board.*** If there are active members of the fund, there shall be two (2) additional board members who shall be one (1) active member of the fund from each department elected by ballot by the active members of the fund from the respective departments and who shall serve for terms of ***at least one (1) year with a maximum of two (2) years***~~[one (1) year]~~ under rules adopted by the board. If all of the active members or all of the retired members are from one (1) department, then both of the active-member board members or both of the retired board members shall be elected from that department. In the event of a vacancy of an elected member, the pension board may fill the vacancy by appointment until the next regular election.

(2) The board of trustees membership shall be restructured according to the provisions of this section at the time of the next scheduled election of board members after July 15, 1994.

(3) Any member of the board convicted of an offense relating to mismanagement or embezzlement of the fund created pursuant to KRS 95.852 shall be removed from the board, and shall be prohibited from serving on the board. If the board member removed is an ex officio member, the city council shall appoint a replacement until another person shall fill the office entitled to a seat on the board. If the board member removed is an active policeman or firefighter, the board shall fill the vacancy by appointment of another active policeman or firefighter until the next regular election.

Section 2. KRS 95.870 is amended to read as follows:

(1) Subject to the foregoing provisions, there shall be held on the first Wednesday after the first Tuesday of September of each year an election among the active members for trustee of the fund. ***Under KRS 95.869, if there are two (2) additional active board members of the fund serving from each department, their terms shall be for at least one (1) year with a maximum of two (2) years under rules adopted by the board.***

(2) On or before August 10 preceding, nominations for candidates in the election shall be filed with the chief of the police department and the chief of the fire department. The nominations shall be in writing and shall be signed by not less than twenty-five percent (25%) of the members. Within five (5) days after the close of nominations, the chiefs of the respective departments shall certify in writing to all districts and bureaus of the departments the names of those placed in nomination.

(3) On the first Wednesday after the first Tuesday in September beginning at the hour of 12 noon on Wednesday and continuing thereafter for a forty-eight (48) hour period, an election shall be held under the supervision of the commanding officers of the districts and bureaus. Each member shall vote at the district or bureau of which he is a member, except those members who are not assigned to a specific district or bureau, who shall vote at the office of the chief of police or chief of the fire department, as the case may be. At the close of voting, the commanding officer of each district or bureau, shall in the presence of the nominees or their duly authorized agents, open the ballot box and count the votes. He shall then make a certificate of the count and send the certificate with the ballots in a sealed envelope to the mayor, who shall, on the following Wednesday, open all the certificates so received and after counting all the returns, certify the results to the board. On the third Wednesday after the first Tuesday in September the candidate or candidates receiving the most votes shall assume office.

The Committee on Transportation reported **HB 495**, with Committee Amendment attached thereto, **HB 635**, **HB 674**,

HB 740, with Committee Substitute attached thereto, **HB 741**, with Committee Amendment attached thereto, **HJR 98**, **SB 85**, and **SB 221**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 495, AN ACT relating to traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.230 is amended to read as follows:

(1) The department, in respect to state and federal highways, ***the fiscal court***[~~and county judges/executive~~] in respect to county highways, ***and the city government in respect to municipal highways,*** may prescribe, by notice as provided in subsection ***(3)***[~~(2)~~] of this section, load and speed limits lower than the limits prescribed in KRS 189.221 and subsection (4) of KRS 189.390, respectively, if in their judgment any highway may, by reason of its design, deterioration, rain, or other natural causes, be damaged or destroyed by motor trucks or semitrailer trucks, if their gross weight or speed exceeds certain limits. The department***, fiscal court, or city government***[~~or county judges/executive~~] may, by like notice, regulate or prohibit the operation of motor trucks or semitrailer trucks on state highways***,***[~~ or~~] county roads***, or municipal highways*** for limited periods of specified days, or parts of days, if their load and speed exceed those limits, if in their judgment, the regulation or prohibition is necessary, by reason of traffic density or intensive use by the traveling public, to provide for the public safety and convenience on the highway.

(2) The department, in respect to bridges on the extended weight coal haul system defined in KRS 177.9771, may prescribe, by notice, as provided in subsection (3) of this section, gross weight limits lower than the limits prescribed in KRS 177.9771, when in its judgment any bridge on the extended weight coal haul road system may, by reason of its design or deterioration, be damaged or destroyed to the point of catastrophic failure by motor vehicles, if their gross weight exceeds certain limits. For the purposes of KRS 177.9771, all bridges shall conform with KRS 177.9771(4)(a) to (d).

(3) The notice or the substance of it shall be posted at conspicuous places at the termini of and at all intermediate crossroads and road junctions with the section of the highway to which the notice applies. After a notice has been posted, a person shall not operate any motor truck or semitrailer truck contrary to its provisions.

(4) A local government through an engineering study may determine that a road under its jurisdiction is capable of accommodating, without deterioration, weights in excess of those prescribed by Section 3 of this Act. If a local government makes this determination, it may by ordinance establish weight limits for roads that do not exceed eighty thousand (80,000) pounds.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "materials" shall mean cargo, whether divisible or nondivisible, that a motor vehicle transports in the usual and ordinary course of business and shall specifically include, but not be limited to, agricultural products, minerals, or natural resources transported by a motor vehicle.

(2) Notwithstanding any other provision of law, a local government may issue special permits to the owners, operators, or lessees of motor vehicles for the purpose of hauling materials whose gross weight or dimensions, including vehicle and load, exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. A permit shall be issued for specified materials only and shall designate the portions of the local government-owned road over which the vehicle may operate under the permit. The permit shall be issued for a stated period of time not to exceed one (1) year and shall be upon the terms and conditions as the local government may, in its discretion, require. The local government shall require, as a condition to issuing the permit, that the applicant pay a reasonable fee to be fixed by the local government, and give bond with approved surety in an amount that will indemnify the local government against damage to its highways or bridges resulting from the operation of any motor vehicle under the authorization of this permit. The operation of any motor vehicle in accordance with the terms of the permit shall not constitute a violation of this chapter, if the operator has a valid permit, or a copy of a valid permit, in his or her possession.

(3) The local government shall not issue a permit under this section for a vehicle whose gross weight, including vehicle and load, exceeds the maximum weight limits established in KRS 189.222.

(4) The local government shall not issue a permit under this section for a vehicle whose dimensions, including vehicle and load, exceed the maximum dimension limits established in KRS 189.222.

(5) A person shall not operate a motor vehicle in violation of the terms and conditions of any permit issued by the local government under this section.

(6) A local government may:

- ***(a) Exercise general supervision for administering and enforcing the provisions of this section.***
- ***(b) Adopt ordinances regulating the issuance of a permit, including but not limited to matters concerning the duration of permits and weight limits for various types of vehicles, materials, and highways.***

(c) Adopt rules and regulations governing the amount, terms and conditions of a bond, and the sufficiency of the surety of any bond required by this section.

(d) Issue, continue in effect, revoke, modify, or deny a permit issued under this section.

Section 3. KRS 189.221 is amended to read as follows:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of KRS 189.222(9) ***or subsection (4) of Section 1 of this Act***, any of the following trucks, trailers, manufactured homes, or vehicles:

(1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;

(2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;

(3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;

(4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;

(5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.

(6) Notwithstanding the provisions of this section, any truck hauling building materials to a road construction project on a highway rated less than the maximum weight provided above, may haul up to eighty thousand (80,000) pounds gross weight, including the load, without a permit. This privilege shall extend only to travel between the materials manufacturing site and the road construction project and shall be automatically rescinded upon completion of the project.

Section 4. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270,[~~ or~~] 189.271***, or Section 2 of this Act,*** shall be fined two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60)[~~ nor more than five hundred dollars ($500)~~].

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280,[~~ or~~] 189.490, ***or the dimension provisions of Section 2 of this Act,*** for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

The Committee Amendment No. 1 to **HB 495** is as follows:

On page 1, line 3, after the comma "," delete "***and the city government in***"; and

On page 1, line 4, delete "***respect to municipal highways,***"; and

On page 1, line 9, after the word "department" delete the comma "***,***" and insert the word "***or***" and after the words "***fiscal court***" delete "***, or city government***"; and

On page 1, line 11, after the word "highways" delete the comma "***,***" and remove the brackets and strikethroughs from the word "or" and after the words "county roads" delete "***, or***"; and

On page 1, line 12, delete "***municipal highways***"; and

On page 2, line 3, after the word "***A***" delete the words "***local government***" and insert "***fiscal court***"; and

On page 2, line 5, after the words "***If a***" delete the word "***local***" and insert "***fiscal court***"; and

On page 2, line 6, before the word "***makes***" delete the word "***government***"; and

On page 2, line 7, after the period "***.***" insert the following:

"***A fiscal court that establishes increased weight limits under this subsection shall be prohibited from being eligible to receive rural and municipal road aid allocated to counties under KRS 177.360 for the routes upon which the fiscal court raised the weight limits.***"; and

On page 2, line 14, after the word "***a***" delete the words "***local government***" and insert in lieu thereof "***fiscal court***"; and

On page 2, line 19, after the words "***of the***" delete "***local government-***" and insert "***fiscal court-***"; and

On page 2, line 22, after the words "***as the***" delete "***local government***" and insert "***fiscal court***"; and

On page 2, line 23, after the word "***The***" delete "***local government***" and insert "***fiscal court***"; and

On page 2, line 24, after the words "***by the***" delete "***local government***" and insert "***fiscal court***"; and

On page 3, line 4, after the word "***The***" delete "***local government***" and insert "***fiscal court***"; and

On page 3, line 7, after the word "***The***" delete "***local government***" and insert "***fiscal court***"; and

On page 3, line 11, after the words "***by the***" delete "***local government***" and insert "***fiscal court***"; and

On page 3, line 12, after the word "***A***" delete "***local government***" and insert "***fiscal court***"; and

On page 9, after line 21, insert the following new section to read as follows:

"Section 5. KRS 177.360 is amended to read as follows:

(1) Except as provided in ***subsection (4) of Section 1 of this Act and*** subsection (5) of this section, the Department of Rural and Municipal Aid shall allocate the funds set apart under KRS 177.320(1) for construction, reconstruction, and maintenance of state-maintained secondary and rural highways as follows:

(a) One-fifth (1/5) shall be apportioned equally among the one hundred twenty (120) counties.

(b) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the rural population of each county bears to the total rural population of the state. "Rural population" as used here means the population in a county outside cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census.

(c) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of twenty-five hundred

(2,500) or more bears to the total mileage of such roads for the entire state.

(d) Two-fifths (2/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the square-mile rural area of the county bears to the total square-mile rural area of the state. "Rural area" as used here means that area of the county outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of the United States Bureau of the Census.

(2) A sum not exceeding six percent (6%) of the allocation provided by KRS 177.320(1) to each county shall be deducted at the beginning of each fiscal year and adjusted quarterly to cover the maintenance, administrative, engineering, and other costs of the program.

(3) Of the total amount apportioned by the provisions of this section, a sum not exceeding six percent (6%) may be deducted and placed by the Department of Rural and Municipal Aid in a special emergency account to be expended at the direction of the commissioner to meet unforeseen emergencies on rural and secondary roads and bridges.

(4) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Finance and Administration Cabinet and adjusted quarterly in accordance with the most recent revision of the estimates by the Finance and Administration Cabinet.

(5) Any county eligible to receive county road aid moneys pursuant to KRS 177.320 and this section shall be required to submit a uniform financial information report to the Department of Local Government pursuant to KRS 65.905 before any payment of county road aid funds shall be made. The Department of Local Government shall notify the Department of Rural and Municipal Aid no later than March 1 annually of any county that has not submitted a uniform financial information report. The Department of Rural and Municipal Aid shall upon notification by the department immediately suspend all county road aid moneys to the county until the county complies with the provisions of KRS 65.900 to 65.915 and submits the uniform financial information report to the Department of Local Government. The department shall immediately notify the Department of Rural and Municipal Aid to reinstate county road aid moneys to any county affected by this subsection as soon as the county submits the uniform financial information report.".

HB 635, AN ACT relating to license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.1732 is amended to read as follows:

(1) Upon application to the county clerk of the county of residence, ***an active component***[~~a~~] member of the United States ***Armed Forces, a member of the reserves of the United States Armed Forces,***[~~Army Reserve~~] or any retired member of the ***United States Armed Forces***[~~Army Reserve~~] with ***twenty***[~~twenty-five~~] ***(20)***[~~(25)~~] years of service***, or a veteran of the United States Armed Forces who served on active duty for at least twenty-four (24) months and received an honorable discharge*** shall be issued a license plate in the same form and character as license plates authorized by law to be used on passenger cars. This license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a), but shall not authorize the operation of the vehicle at a gross laden weight in excess of six thousand (6,000) pounds. The plate shall bear ***a seal, indicating Army, Air Force, Marine Corps, or Navy, a designator that indicates whether the applicant's status is active, reserve, retired, or veteran,***[~~the name "United States Army Reserve"~~] and a registration number. The member***,***[~~ or~~] retired member***, or veteran,*** may purchase ***two (2) registrations***[~~only one (1) such registration~~] annually and ***they***[~~it~~] shall be for ***vehicles that are owned or leased by the applicant***[~~a vehicle in which he has total or partial ownership~~]. Each application shall be accompanied by proof of current ***active*** or ***reserve***[~~previous~~] service***, retired status or veteran eligibility***[~~ in the United States Armed Forces~~], and the payment of a one (1) time fee of twenty-five dollars ($25). License plates issued under this section shall expire on December 31. Annually, thereafter, upon application to the county clerk of the county of his residence, together with proof of current service***,*** or ***twenty (20)***[~~twenty-five (25)~~] years of previous service in the United States Armed Forces, ***or veteran status,*** and with payment of a renewal registration fee of eleven dollars and fifty cents ($11.50) and three dollars ($3) clerk's fee, the clerk shall issue a new plate or renewal decal as directed by the Transportation Cabinet. Application for registration under this section shall be made to the county clerk of the county of residence and shall be accompanied by the appropriate fees prescribed by this section.

(2) (a) Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the owner shall remove the ***military***[~~Army Reserve~~] license plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate, and certificate of title and registration, upon payment of an eleven dollar and fifty cent ($11.50) state fee and three dollar ($3) clerk's fee.

(b) Upon application of another vehicle which is authorized to bear the registration under subsection (1) of this section, owned by the same applicant to whom the ***military***[~~Army Reserve~~] license plate was originally issued, the county clerk shall issue another such license plate. There shall be no state fee for the plate and a two dollar ($2) clerk's fee.

(3) Upon termination of membership in the ***active component or reserves of the*** United States ***Armed Forces***[~~Army Reserve, except for those retired persons who remain eligible through the provisions of subsection (1) of this section~~], an applicant to whom ***a military***[~~an Army Reserve~~] license plate was issued under this section shall, within thirty (30) days, return the ***military***[~~Army Reserve~~] plate to the county clerk of his county of residence.

(4) For the services performed in issuing ***military***[~~Army Reserve~~] license plates, and in annually issuing a renewal decal to be affixed to the ***military***[~~Army Reserve~~] license plate, the county clerk shall receive from each applicant a fee of three dollars ($3). A like fee shall be charged for issuance of a replacement license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) The secretary of the Transportation Cabinet shall, in accordance with the provisions of KRS Chapter 13A, promulgate administrative regulations and prescribe forms necessary to carry out the purpose of this section.

HB 674, AN ACT relating to annual permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.2717 is amended to read as follows:

(1) Subject to the provisions of KRS 189.222, the department may promulgate administrative regulations pursuant to KRS Chapter 13A governing the issuance of annual permits for the operation of motor vehicles transporting nondivisible loads in this Commonwealth whose gross weight exceeds the limits prescribed by this chapter. [~~In no instance shall~~]The gross weight of a motor vehicle operating pursuant to this section ***shall not*** exceed one hundred twenty thousand (120,000) pounds. The movement of the overweight motor vehicle shall be limited to a specific route set forth on the annual permit.

(2) The following axle weights shall not be exceeded in the loading of a nondivisible load:

(a) Single axle with axles less than forty-two (42) inches apart ***and being the steering axle with one (1) wheel on each side of the axle*** to be considered a single axle shall not be more than fifteen thousand (15,000) pounds;

(b) Two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart shall not be more than forty thousand (40,000) pounds;

(c) Three (3) axles in tridem arrangement which are spaced forty-two (42) or more inches apart and less than one hundred twenty (120) inches apart shall not be more than sixty-five thousand (65,000) pounds***;***

(d) Dual wheel axle with one (1) axle with two (2) wheels on each side of the axle to be considered a dual wheel axle shall not be more than twenty thousand (20,000) pounds each.

(3) Each motor vehicle operating pursuant to this section shall comply with the safety provisions set forth in the administrative regulations promulgated by the department pursuant to this section.

(4) The fee for the annual permit for each motor vehicle pursuant to this section shall be five hundred dollars ($500).

(5) The department may refuse to issue a permit for a requested route because of the inadequacies of the roadway or a structure on that route.

HB 740, AN ACT relating to license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any person who complies with the provisions of KRS 186.186 may apply for a special Kentucky Horse Council license plate.

(2) In addition to the fees required by KRS 186.186, a person applying for a Kentucky Horse Council license plate shall pay a ten dollar ($10) fee that shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet on a quarterly basis. When applying for an annual renewal registration decal, a person with a Kentucky Horse Council license plate shall pay a five dollar ($5) fee, in addition to the renewal fee established in KRS 186.186(2). The five dollar ($5) fee shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet on a quarterly basis.

(3) A special Kentucky Horse Council license plate shall be the color and design selected by the Kentucky Horse Council. The name Kentucky and the annual registration renewal decal shall appear on the plate. The Transportation Cabinet may use any combination of letters or numerals as needed in the design.

(4) All revenues generated pursuant to this subsection shall be forwarded by the Transportation Cabinet to the Kentucky Horse Council.

The Committee Substitute to **HB 740** is as follows:

AN ACT relating to license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any person who complies with the provisions of KRS 186.186 may apply for a special Kentucky Horse Council license plate.

(2) In addition to the fees required by KRS 186.186, a person applying for a Kentucky Horse Council license plate shall pay a ten dollar ($10) fee that shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230. When applying for an annual renewal registration decal, a person with a Kentucky Horse Council license plate shall pay a five dollar ($5) fee, in addition to the renewal fee established in KRS 186.186(2). The five dollar ($5) fee shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230.

(3) A special Kentucky Horse Council license plate shall be the color and design selected by the Kentucky Horse Council and approved by the Transportation Cabinet. The name Kentucky and the annual registration renewal decal shall appear on the plate. The Transportation Cabinet may use any combination of letters or numerals as needed in the numbering of the license plates.

(4) All revenues generated pursuant to this subsection shall be forwarded by the Transportation Cabinet to the Kentucky Horse Council.

HB 741, AN ACT relating to unobstructed windshields on motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.110 is amended to read as follows:

(1) A windshield in a fixed and upright position, that is equipped with safety glazing as required by federal safety-glazing material standards, is required on every motor vehicle which is operated on the public highways, roads, and streets, except on a motorcycle or implement of husbandry.

(2) A person shall not operate a motor vehicle on a public highway, road, or street with any sign, sunscreening material, product, or covering attached to, or located in or upon the windshield, except the following:

   (a) A certificate or other paper required to be displayed by law;

   (b) Sunscreening material along a strip at the top of the windshield, if the material is transparent and does not encroach upon the driver's direct forward viewing area as defined in Federal Motor Vehicle Safety Standards No. 205 as the AS/1 portion of the windshield.

(3) A person shall not operate a motor vehicle required to be registered in the Commonwealth, on a public highway, road, or street on which vehicle the side wings and side windows on either side forward of or adjacent to the operator's seat are composed of, covered by, or treated with any sunscreening material or other product or covering which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as expressly permitted by this section. A sunscreening material may be applied to the windows if, when tested ***in conjunction with the existing glazing to which the material is applied***[~~on one eighth (1/8) inch clear glass~~], the material has a total solar reflectance of visible light of not more than twenty-five percent (25%) as measured on the nonfilm side and a light transmittance of at least ***thirty***[~~thirty five~~] percent ***(30%)***[~~(35%)~~] in the visible light range.

(4) A person shall not operate a motor vehicle required to be registered in the Commonwealth, on a public highway, road, or street on which vehicle any windows behind the driver are composed of, covered by, or treated with any sunscreening material, or other product or material which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as specified below:

   (a) Sunscreen material consisting of film which, when tested on ***in conjunction with the existing glazing to which the material is applied***[~~one eighth (1/8) inch clear glass~~], has a total solar reflectance of visible light of not more than thirty-five percent (35%) as measured on the nonfilm side and a light transmittance of at least eighteen percent (18%) in the visible light range; however, sunscreen material which, when tested ***in conjunction with the existing glazing to which the material is applied***[~~on one eighth (1/8) inch clear glass~~], has a total solar reflectance of visible light of not more than thirty-five percent (35%) as measured on the nonfilm side and a light transmittance of at least eight percent (8%) in the visible light range may be used on multipurpose passenger vehicles;

   (b) Perforated sunscreening material which, when tested in conjunction with existing glazing or film material, has a total reflectance of visible light of not more than thirty-five percent (35%) and a light transmittance of no less than thirty percent (30%). For those products or materials having different levels of reflectance, the highest reflectance from the product or material will be measured by dividing the area into sixteen (16) equal sections and averaging the overall reflectance. The measured reflectance of any of those sections may not exceed fifty percent (50%).

(5) A person shall not operate a motor vehicle required to be registered in the Commonwealth, upon a public highway, road, or street, on which vehicle the rear window is composed of, covered by, or treated with any material which has the effect of making the window nontransparent, unless the vehicle is equipped with side mirrors on both sides.

(6) Each installer or seller of sunscreening material shall provide a pressure-sensitive, self-destructive, nonremovable, vinyl-type film label to the purchaser stating that the material complies with the provisions of KRS 189.010(20) to (23) and subsections (1) to (5) of this section. Each installer shall affix the required label to the inside left door jamb of the motor vehicle. In addition, the label shall state the trade name of the material and the installer's or seller's business name. Labeling is not required for factory glazing which complies with Federal Motor Vehicle Safety Standard No. 205.

(7) Every percentage measurement required by subsections (3) and (4) of this section is subject to a tolerance of plus or minus three percent (3%).

(8) A person shall not install window tinting materials on a vehicle that fails to meet the minimum standards for light transmission pursuant to subsections (3) and (4) of this section. Tinted material that fails to meet the minimum standards for light transmission pursuant to subsections (3) and (4) of this section shall be removed immediately.

(9) A person who applies sunscreening materials in violation of this section shall be guilty upon conviction of a Class B misdemeanor.

(10) Nothing in this section shall prevent the display of a representation of the American flag on the rear window of any motor vehicle, including any vehicle owned by a local or state government, provided that the representation does not exceed a size of five (5) inches by eight (8) inches and is placed in a lower corner of the rear window.

(11) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be so constructed as to be controlled by the operator of the vehicle.

(12) Nothing in this section shall be construed to prevent the use of any window which is composed of, covered by, or treated with any material or component in a manner approved by federal statute or regulation if the window was a component part of a vehicle at the time of the vehicle manufacture, or the replacement of any window by a covering which meets these requirements.

The Committee Amendment No. 1 to **HB 741** is as follows:

On page 4, after line 5, add the following new section to read as follows:

"Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, ~~[189.110,]~~ 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. ***Any person who violates KRS 189.110 shall be issued a courtesy warning for a first offense if the person presents proof to a court of competent jurisdiction that the violation has been corrected to comply with the provisions of KRS 189.110. A second or subsequent violation of KRS 189.110 shall cause a person to be fined not less than twenty dollars ($20) and not more than one hundred dollars ($100).*** Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five

hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

  (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

  (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed."

HJR 98, A JOINT RESOLUTION directing the Transportation Cabinet to name the Hazard By-Pass the "Johnny Cox All-American Drive".

WHEREAS, Johnny Cox was born in Neon, Kentucky, one of six children of W. B. and Lula Mae Cox, and destined for greatness; and

WHEREAS, Johnny Cox moved to Hazard in 1953, where he still resides, and was a standout basketball player for Hazard High School until he graduated in 1955; and

WHEREAS, Johnny Cox was recruited to play for the Big Blue of the University of Kentucky in Lexington, Kentucky, where he earned All-American honors for the Wildcats in 1958 and 1959; and

WHEREAS, after graduating from the University of Kentucky in 1959, Johnny Cox went on to play for the Cleveland Pipers and George Steinbrenner in the American Basketball Association and then for the Chicago Zephers of the National Basketball Association;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the Hazard By-Pass on KY 15, the "Johnny Cox All-American Drive".

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "Johnny Cox All-American Drive" to facilitate their erection upon the effective date of this Resolution.

Section 3. A copy of this Resolution shall be sent to Johnny Cox, 849 North Main Street, Hazard, Kentucky 41701.

SB 85, AN ACT relating to limited access facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.250 is amended to read as follows:

(1) For the purposes of KRS 177.220 to 177.310, the highway authorities of the state, county or city may acquire private or public property and property rights for limited access facilities and service roads, including rights of access, air, view, and light, by gift, devise, purchase, or condemnation in the same manner as such units are authorized by law to acquire property or property rights in connection with highways and streets within their respective jurisdiction. ***Except as***

provided in subsection (2) of this section, all property rights acquired under the provisions of KRS 177.220 to 177.310 shall be in fee simple. In connection with the acquisition of property or property rights for any limited access facility or portion thereof, or service road in connection therewith, the state, county or city highway authority may, in its discretion, acquire an entire lot, block, or tract of land, if by so doing, the interests of the public will be best served, even though said entire lot, block, or tract is not immediately needed for the right-of-way proper.

(2) A city, county, or urban-county independently, or any combination of a city, county, or urban-county that have entered into an interlocal cooperative agreement under KRS 65.210 to 65.300, may purchase options to acquire property or property rights on highways or streets within their respective jurisdictions if the property or property rights to be acquired are for highway projects included in:

(a) The most recent twenty (20) year statewide transportation plan adopted by the Transportation Cabinet and submitted to the Federal Highway Administration;

(b) The most recent six (6) year highway plan enacted by the General Assembly;

(c) The most recent long-range transportation plan adopted by a metropolitan planning organization and submitted to the Transportation Cabinet; or

(d) The most recent recommendations of an area development district transportation committee that have been submitted to the Transportation Cabinet.

(3) The secretary of the Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines governing the purchase of options under subsection (2) of this section.

SB 221, AN ACT relating to riverport authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.520 is amended to read as follows:

(1) Any governmental unit by act of its legislative body, or any two or more governmental units acting jointly by acts of their legislative bodies, and with the approval of the *Transportation Cabinet, Office of the Secretary*[~~Cabinet for Economic Development~~], may establish a developmental riverport authority to be composed of six (6) members.

(2) The authority shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with and do all things reasonable or necessary to effectively carry out the powers and duties prescribed by KRS 65.510 to 65.650. The authority may exercise all powers granted to governmental agencies by KRS 58.010 to 58.140. The authority may exercise all powers, consistent with its powers and duties stated in this chapter, granted by KRS 273.171 to corporations governed by KRS 273.161 to 273.390.

The Committee Amendment No. 1 to **SB 221** is as follows:

On page 1, after line 14, by inserting the following:

"*(3) A Division of Riverports is established within the Transportation Cabinet, Office of the Secretary, to provide oversight on development activities involving riverport authorities. The division shall be responsible for managing a study that will develop a long-range capital improvements plan for Kentucky's riverports that will include, but not be limited to:*

(a) Guidelines for ground transportation access to riverports;

(b) A model for determining the economic impact of riverports; and

(c) A blueprint for creating long-term funding mechanisms for riverports.".

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 85**, by Representative Nunn:

On page 2, lines 16 through 27, page 3, lines 1 through 27, through page 4, lines 1 through 8, by deleting all the language in its entirety, and by inserting in lieu thereof, the following:

"*(1) In addition to the other requirements of this section, a woman upon whom an abortion is to be performed or induced shall:*

(a) Appear in person to schedule an appointment for an abortion and receive the information specified in subsection (3) of this section, in which case the abortion shall not be scheduled until twenty-four (24) hours have elapsed from the time that she leaves the facility; or

(b) Otherwise schedule an appointment, receive the information specified in subsection (3) of this section, and

request that written materials be mailed to her, in which case the abortion shall not be scheduled until twenty-four (24) hours have elapsed from the day on which she receives the written materials. The facility shall mail out all requested information and materials within twenty-four (24) hours of the request for the mailing of the materials.

(2) No abortion shall be performed or induced except with the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Informed consent means that a woman documents that she is aware of the risks involved with the procedure, the alternatives available to her, or has voluntarily chosen to review written materials, as prepared by the Cabinet for Human Resources as outlined in subsection (5).

(3) The information and materials available to a woman who chooses to have an abortion performed or induced and which shall be made available through any licensed physician, licensed social worker, licensed advanced registered nurse practitioner or physician assistant, or any licensed registered nurse, at least twenty-four (24) hours prior to the abortion being performed or induced, shall include:

- ***(a) The nature and purpose of the particular abortion procedure or treatment to be performed and the medical risks and alternatives to the procedure or treatment that a reasonable person would consider material to the decision of whether or not to undergo the abortion;***
- ***(b) The possible eligibility for medical assistance benefits which may be available for prenatal care, childbirth and neonatal care, and detailed information on the availability of those services; and***
- ***(c) The requirement that the father of a fetus is liable to assist in any support, even in instances where he has offered to pay for the abortion.***

(4) Prior to the performance or inducement of an abortion, the physician scheduled to perform or induce the abortion shall require documentation as specified in subsection (2) of this section from the pregnant woman."; and

On page 4, line 9, by deleting "***(2)***", and by inserting in lieu thereof, "***(5)***"; and

On page 5, line 14, by deleting "***(3)***", and by inserting in lieu thereof, "***(6)***"; and

On page 5, line 16, by deleting "***(2)***", and by inserting in lieu thereof, "***(5)***"; and

On page 5, line 21, by deleting "***(4)***", and by inserting in lieu thereof, "***(7)***"; and

On page 5, line 27, by deleting "***(1)***", and by inserting in lieu thereof, "***(2)***"; and

On page 6, line 1, by inserting after the word, "***enter***", the following: "***in the client's medical record***"; and

On page 6, line 3, by deleting "***(5)***", and by inserting in lieu thereof, "***(8)***"; and

On page 6, line 3, by deleting "***(1)***", and by inserting in lieu thereof, "***(2)***"; and

On page 6, line 4, by deleting the words "***and effective***"; and

On page 6, line 5, by deleting "***(6)***", and by inserting in lieu thereof, "***(9)***"; and

On page 6, line 5, by deleting "***(1)***", and by inserting in lieu thereof, "***(2)***"; and

On page 6, line 7, by deleting "***311.595***", and by inserting in lieu thereof "***311.595(3)***".

Floor Amendment No. 1 to **HB 639**, by Representative Riggs:

On page 16, line 17, by deleting all language after "***savings***" and inserting "***in a given year, that surplus savings may be carried forward and applied against any possible savings shortfall in the following guarantee year, except that the surplus carried forward is limited to a period not to exceed one year***; and

On page 16, by deleting line 18; and

On page 16, line 19, by deleting "***shortfalls in any future guarantee year***".

Floor Amendment No. 3 to **HB 671**, by Representative DeWeese:

On Page 1, line 10, by deleting the word "***commercial***" and inserting and underlining in lieu thereof "***financial***".

Floor Amendment No. 4 to **HB 671**, by Representative DeWeese:

On Page 1, line 11, after the word "***developments.***" by inserting and underlining the following, "***These appointees shall have a working knowledge and background in urban planning, development, and environmental issues.***".

Floor Amendment No. 3 to the House Committee Substitute to **SB 63**, by Representative Cave:

On page 1, line 11 after "*section*" by adding "*, "autism" means*"

On page 1, line 12 after "*(a)*" by adding the following:

"*A total of six (6) or more items from subparagraphs 1., 2. and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:*

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or

d. Lack of social or emotional reciprocity.

2. Qualitative impairments in communication as manifested by at least one (1) of the following:

a. Delay in, or total lack of, the development of spoken language;

b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a conversation with others;

c. Stereotyped and repetitive use of language or idiosyncratic language; or

d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder.", and after "*(a)*" by deleting all of line 12;

On page 1, by deleting lines 13 to 21 in their entirety;

On page 1, line 22 by deleting "*(b)*" and by inserting in lieu thereof "*(4) As used in this section,*";

On page 2, line 7 after "*section*" by adding "*, "autism" means*"

On page 2, line 8 after "*(a)*" by adding the following:

"*A total of six (6) or more items from subparagraphs 1., 2. and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:*

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or

d. Lack of social or emotional reciprocity.

2. Qualitative impairments in communication as manifested by at least one (1) of the following:

a. Delay in, or total lack of, the development of spoken language;

b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a *conversation with others;*

c. Stereotyped and repetitive use of language or idiosyncratic language; or

d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder.", and after "*(a)*" by deleting all of line 8;

On page 2, by deleting lines 9 to 17 in their entirety;

On page 2, line 18 by deleting "*(b)*" and by inserting in lieu thereof "*(4) As used in this section,*";

On page 3, line 2 after "*section*" by adding "*, "autism" means*"

On page 3, line 3 after "*(a)*" by adding the following:

"*A total of six (6) or more items from subparagraphs 1., 2. and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:*

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or

d. Lack of social or emotional reciprocity.

2. Qualitative impairments in communication as manifested by at least one (1) of the following:

a. Delay in, or total lack of, the development of spoken language;

b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a conversation with others;

c. Stereotyped and repetitive use of language or idiosyncratic language; or

d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder.", and after "*(a)*" by deleting all of line 3;

On page 3, by deleting lines 4 to 12 in their entirety;

On page 3, line 13 by deleting "*(b)*" and by inserting in lieu thereof "*(4) As used in this section,*";

On page 3, line 25 after "*section*" by adding "*, "autism" means*"

On page 3, line 26 after "*(a)*" by adding the following:

"*A total of six (6) or more items from subparagraphs 1., 2. and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:*

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or

d. Lack of social or emotional reciprocity.

2. Qualitative impairments in communication as manifested by at least one (1) of the following:

a. Delay in, or total lack of, the development of spoken language;

b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a conversation with others;

c. Stereotyped and repetitive use of language or idiosyncratic language; or

d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder", and after "*(a)*" by deleting all of line 26;

On page 3, by deleting line 27 in its entirety;

On page 4, by deleting lines 1 to 8 in their entirety;

On page 4, line 9 by deleting "*(b)*" and by inserting in lieu thereof "*(4) As used in this section,*";

On page 4, line 19 after "*section*" by adding "*, "autism" means*"

On page 4, line 20 after "*(a)*" by adding the following:

"*A total of six (6) or more items from subparagraphs 1., 2. and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:*

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people;

or

d. *Lack of social or emotional reciprocity.*

2. *Qualitative impairments in communication as manifested by at least one (1) of the following:*

a. *Delay in, or total lack of, the development of spoken language;*

b. *In individuals with adequate speech, marked impairment in the ability to imitate or sustain a conversation with others;*

c. *Stereotyped and repetitive use of language or idiosyncratic language; or*

d. *Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.*

3. *Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:*

a. *Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;*

b. *Apparently inflexible adherence to specific, nonfunctional routines or rituals;*

c. *Stereotyped and repetitive motor mannerisms; or*

d. *Persistent preoccupation with parts of objects;*

(b) *Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:*

1. *Social interaction;*

2. *Language as used in social communication; or*

3. *Symbolic or imaginative play; and*

(c) *The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder.*", and after "*(a)*" by deleting all of line 20;

On page 4, by deleting lines 21 to 27 in their entirety;

On page 5, by deleting lines 1 and 2 in their entirety; and

On page 5, line 3 by deleting "*(b)*" and by inserting in lieu thereof "*(4) As used in this section,*".

Floor Amendment No. 13 to the Committee Substitute No. 2 to **HB 327**, by Representative Lindsay:

On page 1, line 4, to delete "*0.08*" and to delete the bracketing and strike through of "0.10"; and

On page 1, line 23, to delete "*0.08*" and to delete the bracketing and strike through of "0.10"; and

On page 2, line 12, following "(a)" to insert the following: "*If the alcohol concentration is below 0.15,*"; and

On page 2, line 18, following "both." to insert the following: "*If the alcohol concentration is 0.15 or higher, for the first offense within a five (5) year period, the defendant shall be sentenced in the same manner as provided in paragraph (b) of this subsection.*"; and

On page 2, line 19, following "(b)" to insert the following: "*If the alcohol concentration is below 0.15,*"; and

On page 2, line 24, following "months." to insert the following: "*If the alcohol concentration is 0.15 or higher, for the second offense within a five (5) year period, the defendant shall be sentenced in the same manner as provided in paragraph (c) of this subsection.*"; and

On page 2, line 25, following "(c)" to insert the following: "*If the alcohol concentration is below 0.15,*" and

On page 3, line 3, following "months." to add the following: "*If the alcohol concentration is 0.15 or higher, for the third offense within a five (5) year period, the defendant shall be sentenced in the same manner as provided in paragraph (d) of this subsection.*"; and

On page 3, line 4, following "(d)" to insert the following: "*If the alcohol concentration is below 0.15,*"; and

On page 3, line 5, following "felony." to insert the following: "*If the alcohol concentration is 0.15 or higher, for a fourth or subsequent offense within a five (5) year period, the defendant shall be guilty of a Class C felony.*"; and

On page 3, line 23, to delete "*0.08*" and to remove the bracketing and strike through of "0.10"; and

On page 9, line 5, through page 11, line 15, to remove the entirety of Sections 4, 5, and 6; and

On page 11, line 16, to renumber "SECTION 7." as "SECTION 4."; and

On page 11, line 26, to delete the second usage of the word "*or*"; and

On page 11, line 27, following "*__189A.103__*" to insert the following:

"*__; or__*

__(c) The person's alcohol concentration level as tested is 0.15 or higher__".

Floor Amendment No. 2 to **HB 639**, by Representative Damron:

On page 6, line 13, after "*__to__*", by deleting the rest of that line and inserting in lieu thereof the following: "*__produce an aggregate simple payback period, as defined by KRS 56.770, of five (5) years or less__*".

Calendar

HB 503, HB 539, HB 590, HB 640, HB 682, HB 708, HCR 82, SB 161, SB 165, HB 113, HB 447, HB 469, HB 511, HB 535, HB 714, SB 5, SB 202, HB 65, HB 560, HB 582, HB 643, HB 230, HB 559, HB 605, SB 66, SB 78, SB 103, SB 114, HB 608, HB 611, HB 634, HB 670, HB 703, HB 728, HB 757, and **SB 65** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 149, SB 150, SB 152, SB 153, SB 156, SB 158, SB 162, SB 173, SB 174, SB 175, SB 176, SB 178,** and **SB 190** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:35 p.m.)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 4, HB 198, HB 199, HB 212,** and **HJR 53** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:45 p.m.)

HB 4, HB 198, HB 199, HB 212, and **HJR 53** delivered to the Senate and signed by the President. Delivered to the Governor on March 5, 1998 at 3:07 p.m.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committee (Continued)

The Committee on Rules reported that **SB 167, SB 259, HB 591, HB 434, SB 139, SB 264, HB 36, HB 146, HB 230, HB 503, HB 511, HB 559, HB 560, HB 590, HB 611, HB 634, HB 640, HB 643, HB 670, HB 708, HCR 82,** and **SB 165** have been posted for passage in the Orders of the Day for March 6, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue:. **HB 211, HB 447**

Orders of the Day

HB 155 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative G. Graham moved that **HB 155** be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See March 5, 1998 roll call on **HB 155** - Appendix.) **HB 155** was passed and the title agreed to. Representative G. Graham moved that the vote by which **HB 155** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 85**, by Representative Stein:

On page 5, lines 18 through 20, after the word "***copies.***" to delete the remaining new language in this paragraph.

Floor Amendment No. 4 to the Committee Substitute to **HB 85**, by Representative Stein:

On page 4, line 18, following the words "***neonatal care***", to delete the word "***and***" and to insert the following language in lieu thereof:

"***, what the requirements are to receive medical assistance benefits as well as welfare benefits, what these benefits will and will not cover, and how long these benefits will last. The materials shall also inform the pregnant woman***".

Floor Amendment No. 5 to the Committee Substitute to **HB 85**, by Representative Stein:

On page 5, lines 19 and 20, after the word "***copy***" to delete "***sufficient to cover the cost of preparation of the materials and postage.***" and insert in lieu thereof:

"***at a rate of no more than ten dollars ($10) per one hundred (100) copies.***".

Floor Amendment No. 6 to the Committee Substitute to **HB 85**, by Representative Palumbo:

On page 3, line 19, by inserting after the period the following new sentence:

"***(c) The physician, licensed nurse, counselor, physician assistant, or social worker shall advise the pregnant woman, from information prepared by and obtained from the Cabinet for Human Resources, of the percentage of fathers who do not pay child support, the average amount of delinquent support payments, and the total amount of delinquent child support payments; the number of children who are not supported by fathers; the cost of well-child care during the first two (2) years of life; the cost of health insurance for families; the minimum cost of food and clothing for children; the cost of education; the cost of child day care; and the penalties for child abuse, including the estimated average cost for legal representation.***"; and

On page 3, line 20, to delete the "***(c)***" and insert "***(d)***"; and

On page 3, line 23, to delete the "***(d)***" and insert "***(e)***"; and

On page 4, line 3, to delete the "***(e)***" and insert "***(f)***".

Floor Amendment No. 7 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 9, between lines 23 and 24, to insert the following:

"Section 4. The Legislative Research Commission shall conduct a study to determine the most reasonable, cost effective, and efficient way to implement the provisions of this Act and make recommendations to the General Assembly. Staff services to be utilized in completing this study are estimated to cost twenty-five thousand dollars ($25,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission. The task force shall forward a report of its findings and recommendations to the Legislative Research Commission no later than July 15, 2000."; and

On page 9, line 24, to renumber "Section 4" as "Section 5"; and

On page 9, after line 27, to insert the following:

"Section 6. The effective date of this Act shall be July 15, 2001.".

Floor Amendment No. 8 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 2, line 21, following "***physician assistant,***" to insert "***counselor,***"; and

On page 3, line 6, following "***physician assistant,***" to insert "***counselor,***".

Floor Amendment No. 9 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 4, line 9, after the word "***English***" to insert "***, Spanish, Vietnamese, and Japanese***"; and

On page 5, lines 19 and 20, after the word "***copy***" to delete "***sufficient to cover the cost of preparation of the materials and postage.***" and insert in lieu thereof:

"***at a rate of no more than ten dollars ($10) per one hundred (100) copies.***".

Floor Amendment No. 10 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 9, between lines 23 and 24, to insert the following:

"Section 4. There is hereby established a Special Task Force on Informed Consent consisting of legislators and nonlegislators created to determine the most reasonable, cost effective, and efficient way to implement the provisions of this Act. The task force members shall be appointed by the Legislative Research Commission and shall include a reasonable number of members including, but not limited to, two (2) representatives from the Cabinet for Human Resources, one (1) representative of the American Civil Liberties Union, one (1) representative from Planned Parenthood, and one (1) representative from the Kentucky Medical Association. The task force shall hold its first meeting no later than July 30, 1998, and shall meet at least monthly. Staff services to be utilized in completing this study are estimated to cost twenty-five thousand dollars ($25,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission. The task force shall forward a report of its findings and recommendations to the Legislative Research Commission no later than July 15, 2000."; and

On page 9, line 24, to renumber "Section 4" as "Section 5"; and

On page 9, after line 27, to insert the following:

"Section 6. The effective date of this Act shall be July 15, 2001.".

Floor Amendment No. 1 to the Committee Substitute to **HB 450**, by Representative Ford:

On page 6, after line 20 by inserting the following:

"Section 3. All law enforcement officers shall issue a courtesy warning to any person cited for violation of subsection (3) of Section 1 of this Act between the effective date of this Act and December 31, 1998. Beginning January 1, 1999, any person cited for violation of subsection (3) of Section 1 of this Act shall be subject to the penalties prescribed by Section 2 of this Act.".

Floor Amendment No. 12 to the Committee Substitute to **HB 85**, by Representative Jordan:

Beginning on page 5, line 5, after "***increments.***" and continuing through page 5, line 13, to delete all intervening new language.

Floor Amendment No. 11 to the Committee Substitute to **HB 85**, by Representative Jordan:

On page 5, line 7, after the word "***depiction***" to insert the words "***that is the actual size***"; and

On page 5, lines 8 to 13, after the word "***fetus.***" to delete the remaining new language of that subsection.

Floor Amendment No. 5 to the House Committee Substitute to **SB 63**, by Representative Gooch:

On page 1, line 5, by deleting "***therapeutic respite and***";

On page 1, line 25, by deleting "***therapeutic respite and***";

On page 2, line 22 by deleting "***therapeutic respite and***";

On page 3, line 18, by deleting "***therapeutic respite***";

On page 3, line 19 by deleting "***and***"; and

On page 4, line 13, by deleting "***therapeutic respite and***".

Floor Amendment No. 4 to the House Committee Substitute to **SB 63**, by Representative Gooch:

On page 1, line 11 after "***section***" by adding "***, "autism" means***"

On page 1, line 12 after "*(a)*" by adding the following:

"*A total of six (6) or more items from subparagraphs 1., 2. and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:*

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or

d. Lack of social or emotional reciprocity.

2. Qualitative impairments in communication as manifested by at least one (1) of the following:

a. Delay in, or total lack of, the development of spoken language;

b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a conversation with others;

c. Stereotyped and repetitive use of language or idiosyncratic language; or

d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder.", and after "*(a)*" by deleting all of line 12;

On page 1, by deleting lines 13 to 21 in their entirety;

On page 1, line 22 by deleting "*(b)*" and by inserting in lieu thereof "*(4) As used in this section,*";

On page 2, line 7 after "*section*" by adding "*, "autism" means*"

On page 2, line 8 after "*(a)*" by adding the following:

"*A total of six (6) or more items from subparagraphs 1., 2. and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:*

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or

d. Lack of social or emotional reciprocity.

2. Qualitative impairments in communication as manifested by at least one (1) of the following:

a. Delay in, or total lack of, the development of spoken language;

b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a conversation with others;

c. Stereotyped and repetitive use of language or idiosyncratic language; or *d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.*

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder.", and after "*(a)*" by deleting all of line 8;

On page 2, by deleting lines 9 to 17 in their entirety;

On page 2, line 18 by deleting "*(b)*" and by inserting in lieu thereof "*(4) As used in this section,*";

On page 3, line 2 after "*section*" by adding "*, "autism" means*"

On page 3, line 3 after "*(a)*" by adding the following:

"*A total of six (6) or more items from subparagraphs 1., 2. and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:*

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or

d. Lack of social or emotional reciprocity.

2. Qualitative impairments in communication as manifested by at least one (1) of the following:

a. Delay in, or total lack of, the development of spoken language;

b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a conversation with others;

c. Stereotyped and repetitive use of language or idiosyncratic language; or

d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder.", and

after "*(a)*" by deleting all of line 3;

On page 3, by deleting lines 4 to 12 in their entirety;

On page 3, line 13 by deleting "*(b)*" and by inserting in lieu thereof "*(4) As used in this section,*";

On page 3, line 25 after "*section*" by adding "*, "autism" means*"

On page 3, line 26 after "*(a)*" by adding the following:

"*A total of six (6) or more items from subparagraphs 1., 2. and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:*

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or

d. Lack of social or emotional reciprocity.

2. Qualitative impairments in communication as manifested by at least one (1) of the following:

a. Delay in, or total lack of, the development of spoken language;

b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a conversation with others;

c. Stereotyped and repetitive use of language or idiosyncratic language; or

d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder", and after "*(a)*" by deleting all of line 26;

On page 3, by deleting line 27 in its entirety;

On page 4, by deleting lines 1 to 8 in their entirety;

On page 4, line 9 by deleting "*(b)*" and by inserting in lieu thereof "*(4) As used in this section,*";

On page 4, line 19 after "*section*" by adding "*, "autism" means*"

On page 4, line 20 after "*(a)*" by adding the following:

"*A total of six (6) or more items from subparagraphs 1., 2. and 3. of this paragraph, with at least two (2) from subparagraph 1. and one (1) each from subparagraphs 2. and 3.:*

1. Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

a. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

b. Failure to develop peer relationships appropriate to developmental level;

c. A lack of spontaneous seeking to share enjoyment, interests, or achievement with other people; or

d. Lack of social or emotional reciprocity.

2. Qualitative impairments in communication as manifested by at least one (1) of the following:

a. Delay in, or total lack of, the development of spoken language;

b. In individuals with adequate speech, marked impairment in the ability to imitate or sustain a conversation with others;

c. Stereotyped and repetitive use of language or idiosyncratic language; or

d. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental levels.

3. Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

a. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

b. Apparently inflexible adherence to specific, nonfunctional routines or rituals;

c. Stereotyped and repetitive motor mannerisms; or

d. Persistent preoccupation with parts of objects;

(b) Delays or abnormal functioning in at least one (1) of the following areas, with onset prior to age three (3) years:

1. Social interaction;

2. Language as used in social communication; or

3. Symbolic or imaginative play; and

(c) The disturbance is not better accounted for by Rett's Disorders of Childhood Disintegrative Disorder.", and after "***(a)***" by deleting all of line 20;

On page 4, by deleting lines 21 to 27 in their entirety;

On page 5, by deleting lines 1 and 2 in their entirety; and

On page 5, line 3 by deleting "***(b)***" and by inserting in lieu thereof "***(4) As used in this section,***".

Floor Amendment No. 2 to the Committee Substitute to **HB 460**, by Representative Long:

On page 19, line 24, after the word "Services" by inserting the phrase "is confirmed";

On page 19, line 26, after the word "subsection" by deleting the number "(12)(f)" and inserting in lieu thereof the number "(1)(d)6. and subsection (1)(f)2."; and

On page 19, line 26, after the word "Section" by deleting the number "1" and inserting in lieu thereof the number "2".

Floor Amendment No. 3 to the Committee Substitute to **HB 460**, by Representative Long:

On page 5, line 17, after the semicolon "***;***" by deleting the word "***or***"; and

On page 5, line 18, after the number "***11.***" by inserting the following:

"***Agreements with an educational cooperative pursuant to KRS 156.017 or with a local school district pursuant to executive branch budget bill authority for the employment of education administrators and professional educators, if the employment is within the agency's employment cap; or***

12.".

Floor Amendment No. 1 to the Committee Substitute to **HB 582**, by Representative Gray:

On page 1, line 3, after "***section***", by replacing "***,***" with "***: (a)***"; and

after line 9, by inserting"***(b) "Letter of agency" means a customer's written statement that authorizes a change of the customer's telecommunications provider and bears the customer's signature.***"; and

on page 1, line 11 by deleting "***written or***" and replacing it with "***customer's letter of agency or the***"; and

after line 18, by adding:

"***(3) If a letter of agency is combined with an inducement, or with information on a subject other than the change of a customer's telecommunications provider, whether or not the letter of agency can be easily severed from the rest of the document, then the language whereby a person authorizes service from the provider shall be printed in a type***

size as large or larger than the largest type used in the document that includes the letter of agency."; and
on line 19, by replacing "*(3)*" with "*(4)*"; and
on line 22, by replacing "*(4)*" with "*(5)*"; and
on page 2, line 20, by replacing "*(5)*" with "*(6)*"; and
on page 3, line 2, by replacing "*(6)*" with "*(7)*".

Floor Amendment No. 1 to the Committee Substitute to **HB 618**, by Representative Palumbo:

On page 1, line 11 after "***compendium***" by deleting "***as defined in subsection (8) of Section***

On page 1, line 12 by deleting "***1 of this Act***"

On page 2, line 1 after "***compendia***" by deleting "***as defined in subsection (8) of Section 1 of this Act*** "

Orders of the Day (Continued)

HB 74, with Committee Substitutes, Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of the Committee Substitute No. 2 to **HB 74**. Agreed.

Representative Anderson moved the adoption of Floor Amendment No. 15 to the Committee Substitute No. 2 to **HB 74**. Representative Callahan inquired if there was a local impact statement on Floor Amendment No. 15 to the Committee Substitute No. 2 to **HB 74**. The Speaker ruled that House Rule 52, which provides that a majority vote of the members may require that a fiscal statement be attached to any bill in the Orders of the Day affecting the revenues or expenditures of state government governs.

Representative Callahan moved that a vote be taken on Floor Amendment No. 15 to the Committee Substitute No. 2 to **HB 74**. On the roll call on Floor Amendment No. 15 to the Committee Substitute No. 2 to **HB 74** the vote was: Yeas 25, Nays 65 (See March 5, 1998, roll call on - Appendix.) Floor Amendment No. 15 to the Committee Substitute No. 2 to **HB 74** was rejected.

Representative Anderson moved the adoption of Floor Amendment No. 22 to the Committee Substitute No. 2 to **HB 74**. On the roll call on Floor Amendment No. 22 to the Committee Substitute No. 2 to **HB 74** the vote was: Yeas 8, Nays 70 (See March 5, 1998, roll call on - Appendix.) Floor Amendment No. 22 to the Committee Substitute No. 2 to **HB 74** was rejected.

Representative Stewart moved the adoption of Floor Amendment No. 13 to the Committee Substitute No. 2 to **HB 74**. On the roll call on Floor Amendment No. 13 to the Committee Substitute No. 2 to **HB 74** the vote was: Yeas 33, Nays 50 (See March 5, 1998, roll call on - Appendix.) Floor Amendment No. 13 to the Committee Substitute No. 2 to **HB 74** was rejected.

Representative Collins moved that **HB 74**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 5, 1998 roll call on **HB 74** - Appendix.) **HB 74**, by way of Committee Substitute No. 2, was passed. Representative Collins moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute No. 2 to **HB 74**. Agreed; and the title was agreed to. Representative Collins moved that the vote by which **HB 74**, by way of Committee Substitute No. 2 as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 13 to the Committee Substitute to **HB 85**, by Representative Jenkins:

On page 9, between lines 23 and 24 to insert the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

A voluntary and absolutely confidential survey of women upon whom an abortion is to be performed shall be conducted by the physician or the physician's agent. The purpose of this survey is to determine the compelling reasons that a woman chooses to have an abortion. The information shall be given to the Legislative Research Commission on June 30th of each year."; and

On page 9, line 24, after the word "Section" to delete the "4" and insert a "5" in lieu thereof.

Floor Amendment No. 14 to the Committee Substitute to **HB 85**, by Representative Jenkins:

On page 2, line 19, after the first "***if***", to insert the words "***the consent is pursuant to KRS 311.732***".

Floor Amendment No. 15 to the Committee Substitute to **HB 85**, by Representative Jenkins:

On page 2, line 18, after the words "***of a***", to insert the words "***victim of sexual assault or incest or if it is a***"; and

On page 6, line 1, after the word "***necessity***" to insert the words "***or if the woman was a victim of sexual assault or incest***".

Floor Amendment No. 16 to the Committee Substitute to **HB 85**, by Representative Jenkins:

On page 9, between lines 23 and 24, to insert the following:

"Section 4. There is hereby established a Special Task Force on Informed Consent consisting of legislators and nonlegislators created to determine the most reasonable, cost effective, and efficient way to implement the provisions of this Act. The task force members shall be appointed by the Legislative Research Commission and shall include a reasonable number of members including, but not limited to, two (2) representatives from the Cabinet for Human Resources, one (1) representative of the American Civil Liberties Union, one (1) representative from Planned Parenthood, one (1) member of the Right to Life, one (1) representative of an adoption agency, and one (1) representative from the Kentucky Medical Association. The task force shall hold its first meeting no later than July 30, 1998, and shall meet at least monthly. Staff services to be utilized in completing this study are estimated to cost twenty-five thousand dollars ($25,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission. The task force shall forward a report of its findings and recommendations to the Legislative Research Commission no later than July 15, 2000."; and

On page 9, line 24, to renumber "Section 4" as "Section 5"; and

On page 9, after line 27, to insert the following:

"Section 6. The effective date of this Act shall be July 15, 2001.".

Floor Amendment No. 17 to the Committee Substitute to **HB 85**, by Representative Jenkins:

On page 4, line 18, following the words "***neonatal care***", to delete the word "***and***" and to insert the following language in lieu thereof:

"***, what the requirements are to receive medical assistance benefits as well as welfare benefits, what these benefits will and will not cover, and how long these benefits will last. The materials shall also inform the pregnant woman***".

Floor Amendment No. 2 to the Committee Substitute to **HB 537**, by Representative Wilkey:

On page 1, line 14, following the word "***outcome.***" to insert the following:

"***For the purposes of this subparagraph, "employee" or "relative" shall not include an employee or relative of the attorney of one of the parties.***".

Orders of the Day (Continued)

HB 673, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 673**. Agreed.

Representative Vincent moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 673**. Agreed.

Representative Barrows moved that **HB 673**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 78, Nays 7 (See March 5, 1998 roll call on **HB 673** - Appendix.) **HB 673**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Barrows moved that the vote by which **HB 673**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 312, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of

members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 312**. Agreed.

Representative Moberly moved that **HB 312**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 5, 1998 roll call on **HB 312** - Appendix.) **HB 312**, by way of Committee Substitute, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 312**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 593 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **HB 593** be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 5, 1998 roll call on **HB 593** - Appendix.) **HB 593** was passed and the title agreed to. Representative Gooch moved that the vote by which **HB 593** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 14 to the Committee Substitute No. 2 to **HB 327**, by Representative Riner:

On page 1, line 4, by deleting "***.08***" and inserting "***.07***"; and
On page 1, line 23, by deleting "***.08***" and inserting "***.07***"; and
On page 3, line 23, by deleting "***.08***" and inserting "***.07***"; and
On page 9, line 15, by deleting "***.08***" and inserting "***.07***"; and
On page 10, line 6, by deleting "***.08***" and inserting "***.07***"; and
On page 11, line 7, by deleting "***.08***" and inserting "***.07***"; and
On page 11, line 11, by deleting "***.08***" and inserting "***.07***".

Floor Amendment No. 15 to the Committee Substitute No. 2 to **HB 327**, by Representative Riner:

On page 2, line 24, following "months." to insert "***When sentencing a defendant as a second offender, the defendant shall be sentenced to jail with work release for verified employment, education, drug and alcohol treatment education programs, and religious services, unless the court is of the opinion that the sentence would unduly depreciate the seriousness of the offense, in which case the court may order a portion of the sentence served as jail time without work release. If a defendant granted work release pursuant to this section violates the provisions of work release the court may order the defendant incarcerated for the remainder of his or her sentence. When a defendant is granted work release pursuant to this section, any portion of a day spent in jail shall count as a twenty-four (24) hour day for purposes of service of sentence and for accounting purposes of the jail.***"

On page 3, line 3, following "months." to insert "***When sentencing a defendant as a third offender, the defendant shall be sentenced to jail with work release for verified employment, education, drug and alcohol treatment education programs, and religious services, unless the court is of the opinion that the sentence would unduly depreciate the seriousness of the offense, in which case the court may order a portion of the sentence served as jail time without work release. If a defendant granted work release pursuant to this section violates the provisions of work release the court may order the defendant incarcerated for the remainder of his or her sentence. When a defendant is granted work release pursuant to this section, any portion of a day spent in jail shall count as a twenty-four (24) hour day for purposes of service of sentence and for accounting purposes of the jail.***".

Floor Amendment No. 16 to the Committee Substitute No. 2 to **HB 327**, by Representative Riner:

On page 3, line 5, at the beginning of the line, to insert the following:

"***misdemeanor and confined in the county jail, home incarceration, half way house, or faith based alcohol or drug, or both, treatment program on weekends and at times when the defendant is not at verified work or bona fide academic or vocational education, attending a court approved alcohol or drug, or both, treatment program, or attending scheduled weekly religious services for a period of two (2) years and shall be confined in the county jail, home incarceration, half way house, or faith based alcohol or drug, or both, treatment, program for an additional one (1) year on weekends, subject to verified work or education, attending a court approved alcohol or drug, or both, treatment program, or attending scheduled***

weekly religious services. If the court is of the opinion that the sentence would unduly depreciate the seriousness of the offense, the court may order a portion of the sentence served as jail time without work release. If a defendant who is granted work release pursuant to this section violates the provisions of work or other release the court may order the defendant incarcerated for the remainder of his or her sentence. When a defendant is granted work release pursuant to this section, any portion of a day spent in jail, home incarceration, half way house, or faith based alcohol or drug, or both, treatment program shall count as a twenty-four (24) hour day spent in jail for purposes of service of sentence and, if incarcerated in jail, for accounting purposes of the jail" and

On page 3, line 5, to place brackets around and strike through "Class D felony".

Orders of the Day (Continued)

HB 655 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HB 655** be passed.

On the roll call the vote was: Yeas 88, Nays 2 (See March 5, 1998 roll call on **HB 655** - Appendix.) **HB 655** was passed and the title agreed to. Representative Worthington moved that the vote by which **HB 655** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 656, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved the adoption of the Committee Substitute to **HB 656**. Agreed.

Representative D. Butler moved that **HB 656**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 2 (See March 5, 1998 roll call on **HB 656** - Appendix.) **HB 656**, by way of Committee Substitute, was passed and the title agreed to. Representative D. Butler moved that the vote by which **HB 656**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 128, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brandstetter moved the adoption of the Committee Substitute to **HB 128**. Agreed.

Representative Brandstetter moved that **HB 128**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 5, 1998 roll call on **HB 128** - Appendix.) **HB 128**, by way of Committee Substitute, was passed and the title agreed to. Representative Brandstetter moved that the vote by which **HB 128**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 38, HB 75, HB 104, HB 154, HB 156, HB 175, HB 284, HB 340, HB 343, HB 347, HB 348, HB 356, HB 357, HB 360, HB 365, HB 412,** and **HB 422** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:15 p.m.)

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 460**, by Representative Long:

One page 2, line 25, before the word "or" by inserting a comma "***,***";

One page 4, line 1, by deleting the word "***mean***" and inserting in lieu thereof the word "***means***";

One page 4, line 4, after the phrase "Using agency" by inserting the "***means***" and by placing brackets and striking through the phrase "shall mean";

On page 11, line 19 after the word "***contracts***" by inserting the phrase "***for personal services***";

On page 11, line 20 after the word "***price***" by deleting the word "***contracts***" and inserting in lieu thereof the word "***contract***";

On page 11, line 22 after the word "***agreement***" by inserting the phrase "***or contract***";

On page 13, line 3 after the word "needed" by inserting the phrase "***or inappropriate***";

On page 19, line 24, after the word "Services" by inserting the phrase "is confirmed";

On page 19, line 26, after the word "subsection" by deleting the number "(12)(f)" and inserting in lieu thereof the number "(1)(d)6. and subsection (1)(f)2."; and

On page 19, line 26, after the word "Section" by deleting the number "1" and inserting in lieu thereof the number "2".

Orders of the Day (Continued)

HB 645 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved that **HB 645** be passed.

On the roll call the vote was: Yeas 84, Nays 0 (See March 5, 1998 roll call on **HB 645** - Appendix.) **HB 645** was passed and the title agreed to. Representative Jenkins moved that the vote by which **HB 645** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 371, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 371**. Agreed.

Representative Stumbo moved that **HB 371**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 2 (See March 5, 1998 roll call on **HB 371** - Appendix.) **HB 371**, by way of Committee Substitute, was passed. Representative Stumbo moved the adoption of Committee Amendment No. 1 Title to **HB 371**. Agreed; and the title was agreed to. Representative Stumbo moved that the vote by which **HB 371**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 621 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 621** be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 5, 1998 roll call on **HB 621** - Appendix.) **HB 621** was passed and the title agreed to. Representative Callahan moved that the vote by which **HB 621** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 679, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johns moved the adoption of the Committee Substitute to **HB 679**. Agreed.

Representative Johns moved that **HB 679**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 5, 1998 roll call on **HB 679** - Appendix.) **HB 679**, by way of Committee Substitute, was passed and the title agreed to. Representative Johns moved that the vote by which **HB 679**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 627**, by Representative Moberly:

On page 27, line 22, after "***the***", by deleting "***2012-2014***" and inserting "***2018-2020***" in lieu thereof.

Orders of the Day (Continued)

HB 521, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crimm moved the adoption of the Committee Substitute to **HB 521**. Agreed. Representative Crimm moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 521**. Agreed.

Representative Crimm moved that **HB 521**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See March 5, 1998 roll call on **HB 521** - Appendix.) **HB 521**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Crimm moved that the vote by which **HB 521**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 372, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Zimmerman moved the adoption of the Committee Substitute to **HB 372**. Agreed.

Representative Zimmerman moved that **HB 372**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 2 (See March 5, 1998 roll call on **HB 372** - Appendix.) **HB 372**, by way of Committee Substitute, was passed and the title agreed to. Representative Zimmerman moved that the vote by which **HB 372**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 598 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 598** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 5, 1998 roll call on **HB 598** - Appendix.) **HB 598** was passed and the title agreed to. Representative Collins moved that the vote by which **HB 598** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 454 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 454** be passed.

On the roll call the vote was: Yeas 90, Nays 1 (See March 5, 1998 roll call on **HB 454** - Appendix.) **HB 454** was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 454** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Representative Stumbo moved that **HJR 89** be reassigned to Appropriations and Revenue. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HJR 89, SCR 88** and **HB 582**. Agreed.

Introduction of Resolutions

HR 127, by Representatives Bruce, Geveden, Bowling and Richards: A RESOLUTION commending Governor Patton and Former Governor Collins for successfully attracting a United Parcel Service (UPS) mega-hub expansion to Louisville.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Tourism Development and Energy: **HB 700**

Education: **HCR 16, HCR 17, HCR 18, HCR 20**

Natural Resources and Environment: **SB 214**

Judiciary: **HB 509, HB 144, HB 702, HB 781, HB 840, HB 841, HB 842, HB 585, HB 620, HB 599, SB 76, HB 796, HB 221, HB 223, HB 707**

Cities: **SB 269, HB 719, HB 837**

Health and Welfare: **HB 756, HB 750**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 200**, with Committee Substitute attached thereto, **HB 334**, **HB 489**, with Committee Substitute attached thereto, **HB 490**, **HB 529**, **HB 552**, with Committee Amendment attached thereto, **HB 556**, **HB 667**, **HB 668**, with Committee Substitute attached thereto, **HB 689**, **HB 690**, **HB 692**, with Committee Substitute and Committee Amendment attached thereto, **HB 725**, **HB 736**, **HB 753**, with Committee Substitute attached thereto, **HB 754**, and **HB 791** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 200, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) ***(a)*** In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(b) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the unlawful method, act, or practice was used on a natural person who is sixty (60) years of age or older. The court may impose this penalty, if the trier of fact determines that one (1) or more of the following factors exist:

1. The defendant knew or should have known that his or her conduct was directed to a person who is sixty (60) years of age or older;

2. The defendant's conduct has caused a person sixty (60) years of age or older to lose or encumber his or her primary residence, lose his or her principal employment, lose property set aside for retirement or personal care and maintenance, lose payments received under a pension or retirement plan or a governmental benefits program, or lose assets essential to the person's health and welfare; and

3. The person who is sixty (60) years of age or older may be substantially more vulnerable than other members of the public because of his or her age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and has suffered substantial physical, emotional, or economic damage because of the defendant's conduct.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and KRS 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and KRS 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

The Committee Substitute to **HB 200** is as follows:

AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) ***(a)*** In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may

recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(b) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than ten thousand dollars ($10,000) per violation, if the unlawful method, act, or practice was used on a natural person who is sixty (60) years of age or older. The court may impose this penalty, if the trier of fact determines that either of the following factors exist:

1. The defendant knew or should have known that his or her conduct was directed to a person who is sixty (60) years of age or older; or

2. The defendant's conduct has caused a person sixty (60) years of age or older to lose or encumber his or her primary residence, lose his or her principal employment, lose property set aside for retirement or personal care and maintenance, lose payments received under a pension or retirement plan or a governmental benefits program, or lose assets essential to the person's health and welfare.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars ($2,000) per violation; and

(c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and KRS 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and KRS 367.482.

(16) Any person who violates KRS 367.310 shall be guilty of a violation.

(17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

HB 334, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 530.060 is amended to read as follows:

(1) A parent, guardian or other person legally charged with the care or custody of a minor is guilty of endangering the welfare of a minor when he fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming a neglected, dependent, or delinquent child. ***The Commonwealth shall not have to present evidence of a prior judicial finding of neglect, dependency, or delinquency of the child to obtain a conviction.***

(2) Endangering the welfare of a minor is a Class A misdemeanor.

HB 489, AN ACT relating to visitation rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

No court shall make an order providing visitation rights to a parent who has been convicted of murder or manslaughter in the first degree of the other parent of the child who is the subject of the order, unless the child is of suitable age to signify assent and assents to the order. Until such an order is issued, no person shall visit, with the child present, a parent who has been convicted of murder or manslaughter in the first degree of the other parent of the child without the consent of the child's custodian or legal guardian.

The Committee Substitute to **HB 489** is as follows:

AN ACT relating to visitation rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 403.320, if a parent of a child is convicted of murder or manslaughter in the first degree of the other parent, a court shall not grant the convicted parent visitation rights with respect to that child unless the court, through a hearing, determines that visitation is in the child's best interest.

(2) If the court later modifies a denial of visitation to grant visitation, the court shall do so only after a hearing which establishes that visitation is in the child's best interest.

(3) In any hearing conducted under subsection (1) or (2) of this section:

(a) Jurisdiction shall lie with the Circuit Court of the county where the child resides; and

(b) The convicted parent, to obtain visitation, shall have to meet the burden of proving that visitation is in the child's best interest.

HB 490, AN ACT relating to the transportation of incarcerated persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 605.080 is amended to read as follows:

(1) ***Any child ordered to be transported, by a committing court, shall be transported by the sheriff or the jailer of that county. Any other law enforcement agency may enter into agreements with the court, sheriff, or jailer to transport juveniles.***

(2) Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be allowed an amount prescribed by regulation adopted by the Finance and Administration Cabinet calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging***,*** and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the District Court and certified by the circuit clerk to ***the Department of Juvenile Justice or*** the cabinet, ***as appropriate,*** for payment out of funds appropriated to the Department of Juvenile Justice or the cabinet for this purpose. The child's presence shall be necessary at a postdispositional proceeding only as required by court order ***for good cause***. ***Transportation shall be provided as in subsection (1) of this section and*** expenses for transportation of a child to[~~ such~~] a proceeding from a residential treatment facility or other facility operated by the Department of Juvenile Justice or the cabinet shall be paid out of the State Treasury.

(3)[~~(2)~~] No child shall be transported to any residential treatment facility or other facility, pursuant to order of any court or direction of the cabinet, unless accompanied by an attendant of the same gender, or, when authorized in writing by the court, the Department of Juvenile Justice, or the cabinet, by a parent, grandparent, or adult brother or sister.

(4)[~~(3)~~] The agent of any residential treatment facility or other facility which receives a child transported to the facility shall report any violation of subsection (2) of this section to the Commonwealth's attorney of the judicial circuit in which the facility is located.

(5)[~~(4)~~] The Department of Juvenile Justice or the cabinet may pay the necessary traveling expenses of children committed to it for care and treatment from their homes to the residential treatment facility or other facility or home to which they are committed, and the traveling expenses of such children from the facility or home to their homes when discharged or placed on supervised placement.

Section 2. KRS 70.130 is amended to read as follows:

The sheriff shall, by himself or deputy, convey all persons to the penitentiary ***or juvenile facility*** condemned to confinement therein, and execute the sentence of the court in other criminal and penal cases. But the court may order the coroner or jailer to act in the place of the sheriff in the discharge of those duties.

Section 3. KRS 605.990 is amended to read as follows:

(1) Any person who intentionally violates any provision of this chapter, other than KRS 605.080***(4)***[~~(3)~~], shall be guilty of a Class B misdemeanor.

(2) Any person who intentionally violates KRS 605.080***(4)***[~~(3)~~], shall be guilty of a violation.

HB 529, AN ACT relating to living wills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.623 is amended to read as follows:

(1) An adult with decisional capacity may make a written living will directive that does any or all of the following:

  (a) Directs the withholding or withdrawal of life-prolonging treatment; or

  (b) Directs the withholding or withdrawal of artificially provided nutrition or hydration; or

  (c) Designates one (1) or more adults as a surrogate or successor surrogate to make health care decisions on behalf of the grantor. During any period in which two (2) or more surrogates are serving, all decisions shall be by unanimous consent of all the acting surrogates unless the advance directive provides otherwise***; or***

  (d) Directs the giving of all or any part of the adult's body upon death for any purpose specified in KRS 311.185.

(2) Except as provided in KRS 311.633, a living will directive made pursuant to this section shall be honored by a grantor's family, regular family physician or attending physician, and any health care facility of or in which the grantor is a patient.

(3) For purposes of KRS 311.621 to 311.643, notification to any emergency medical responder as defined by KRS Chapter 211 or any paramedic as defined by KRS Chapter 311, of a person's authentic wish not to be resuscitated shall be recognized only if on a standard form or identification approved by the Kentucky Board of Medical Licensure, in consultation with the Cabinet for Human Resources.

Section 2. KRS 311.625 is amended to read as follows:

(1) A living will directive made pursuant to KRS 311.623 shall be substantially in the following form, and may include other specific directions which are in accordance with accepted medical practice and not specifically prohibited by any other statute. If any other specific directions are held by a court of appropriate jurisdiction to be invalid, that invalidity shall not affect the directive.

"Living Will Directive

My wishes regarding life-prolonging treatment and artificially provided nutrition and hydration to be provided to me if I no longer have decisional capacity, have a terminal condition, or become permanently unconscious have been indicated by checking and initialing the appropriate lines below. By checking and initialing the appropriate lines, I specifically:

.... Designate .... as my health care surrogate(s) to make health care decisions for me in accordance with this directive when I no longer have decisional capacity. If .... refuses or is not able to act for me, I designate .... as my health care surrogate(s).

Any prior designation is revoked.

If I do not designate a surrogate, the following are my directions to my attending physician. If I have designated a surrogate, my surrogate shall comply with my wishes as indicated below:

.... Direct that treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain.

.... DO NOT authorize that life-prolonging treatment be withheld or withdrawn.

.... Authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... DO NOT authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... Authorize my surrogate, designated above, to withhold or withdraw artificially provided nourishment or fluids, or other treatment if the surrogate determines that withholding or withdrawing is in my best interest; but I do not mandate that withholding or withdrawing.

.... Authorize the giving of all or any part of my body upon death for any purpose specified in KRS 311.185.

.... DO NOT authorize the giving of all or any part of my body upon death.

In the absence of my ability to give directions regarding the use of life-prolonging treatment and artificially provided nutrition and hydration, it is my intention that this directive shall be honored by my attending physician, my family, and any surrogate designated pursuant to this directive as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of the refusal.

If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.

I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

Signed this .... day of ...., 19...

Signature and address of the grantor.

In our joint presence, the grantor, who is of sound mind and eighteen (18) years of age, or older, voluntarily dated and signed this writing or directed it to be dated and signed for the grantor.

Signature and address of witness.

Signature and address of witness.

OR

STATE OF KENTUCKY)

...........County)

Before me, the undersigned authority, came the grantor who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be signed and dated as above.

Done this .... day of ...., 19...

Signature of Notary Public or other officer.

Date commission expires:.............

Execution of this document restricts withholding and withdrawing of some medical procedures. Consult Kentucky Revised Statutes or your attorney."

(2) An advanced directive shall be in writing, dated, and signed by the grantor, or at the grantor's direction, and either witnessed by two (2) or more adults in the presence of the grantor and in the presence of each other, or acknowledged before a notary public or other person authorized to administer oaths. None of the following shall be a witness to any

advance directive made under this section:

(a) A blood relative of the grantor;

(b) A beneficiary of the grantor under descent and distribution statutes of the Commonwealth;

(c) An employee of a health care facility in which the grantor is a patient, unless the employee serves as a notary public;

(d) An attending physician of the grantor; or

(e) Any person directly financially responsible for the grantor's health care.

(3) A person designated as a surrogate pursuant to an advance directive may resign at any time by giving written notice to the grantor; to the immediate successor surrogate, if any; to the attending physician; and to any health care facility which is then waiting for the surrogate to make a health care decision.

(4) An employee, owner, director, or officer of a health care facility where the grantor is a resident or patient shall not be designated or act as surrogate unless related to the grantor within the fourth degree of consanguinity or affinity or a member of the same religious order.

HB 552, AN ACT relating to commerce.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 376 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context otherwise requires:

(a) "Customer" means any person who causes a molder to fabricate, cast, or otherwise make a die, mold, form, or pattern, or who provides a molder with a die, mold, form, or pattern, to manufacture, assemble, cast, fabricate, or otherwise make a product for a customer; and

(b) "Molder" means any person who fabricates, casts, or otherwise makes or uses a die, mold, form, or pattern for the purpose of manufacturing, assembling, casting, fabricating, or otherwise making a product for a customer. "Molder" includes, but is not limited to, a tool or die maker.

(2) (a) In the absence of any agreement to the contrary, a customer shall have all rights and title to any die, mold, form, or pattern in the possession of a molder.

(b) If a customer does not claim possession from a molder of a die, mold, form, or pattern, all rights and title to any die, mold, form, or pattern shall be transferred by operation of law to the molder for the purpose of destroying or otherwise disposing of the die, mold, form, or pattern, consistent with this subsection.

(c) If a molder chooses to have all rights and title to any die, mold, form, or pattern transferred to the molder by operation of law, the molder shall send written notice by registered mail to the chief executive officer of the customer or, if the customer is not a business entity, to the customer, at the customer's last known address. The written notice shall indicate that the molder intends to terminate the customer's rights and title by having the rights and title transferred to the molder by operation of law under this section. The notice shall include a statement of the customer's rights set forth in paragraph (d) of this subsection.

(d) 1. If a customer does not respond in person or by mail to claim possession of a particular die, mold, form, or pattern within one hundred twenty (120) days following the date that the notice was mailed, or does not make contractual arrangements with the molder for storage of the die, mold, form, or pattern, all rights and title of the customer, except patents and copyrights, shall transfer by operation of law to the molder. Thereafter, the molder may destroy or otherwise dispose of the particular die, mold, form, or pattern as the molder's own property without any risk of liability to the customer.

2. This section shall not be construed in any manner to affect any right of the customer under federal patent or copyright law or federal law pertaining to unfair competition.

(3) (a) A molder shall have a lien, dependent on possession, on all dies, molds, forms, or patterns in his hands and that belong to a customer, for the balance due him from the customer for any manufacturing or fabrication work, and in the value of all material related to the work. The molder may retain possession of the die, mold, form, or pattern until the charges are paid.

(b) Before enforcing a lien, a molder shall give notice in writing to the customer, whether delivered personally or sent by registered mail to the last known address of the customer. The notice shall state that a lien is claimed for the damages set forth in or attached to the writing for manufacturing or fabrication work contracted or performed for the customer. The notice shall also include a demand for payment.

(c) If the molder has not been paid the amount due within sixty (60) days after the notice has been received by the customer, as provided in paragraph (b) of this subsection, the molder may sell the die, mold, form, or

pattern at a public auction.

(4) (a) Before a molder may sell the die, mold, form, or pattern, the molder shall notify the customer by registered mail, return receipt requested. The notice shall include:

1. The molder's intention to sell the die, mold, form, or pattern thirty (30) days after the customer's receipt of the notice;

2. A description of the die, mold, form, or pattern to be sold;

3. The time and place of the sale; and

4. An itemized statement for the amount due.

(b) If there is not a return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the molder shall publish the notice of the molder's intention to sell the die, mold, form, or pattern in a newspaper of general circulation in the customer's last known place of business. The notice shall include a description of the die, mold, form, or pattern.

(c) 1. If the sale is for a sum greater than the amount of the lien, the excess shall be paid to any prior lienholder known to the molder at the time of the sale and any remainder shall be paid to the customer, if the customer's address is known, or the Kentucky State Treasurer for deposit in the general fund if the customer's address is unknown to the molder at the time of the sale.

2. A molder shall not conduct a sale if the sale violates any right of a customer under federal patent or copyright law.

The Committee Amendment No. 1 Title to **HB 552** is as follows:

By amending the title to read as follows: "AN ACT relating to liens."

HB 556, AN ACT relating to District Courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.120 is amended to read as follows:

District Court shall have exclusive jurisdiction in:

(1) Civil cases in which the amount in controversy does not exceed *five*[~~four~~] thousand dollars *($5,000)*[~~($4,000)~~], exclusive of interest and costs, except matters affecting title to real estate and matters of equity; however, nothing herein shall prohibit execution levy on real estate in enforcement of judgment of District Court;

(2) Matters involving probate, except matters contested in an adversary proceeding. Such adversary proceeding shall be filed in Circuit Court in accordance with the Kentucky Rules of Civil Procedure and shall not be considered an appeal; and

(3) Matters not provided for by statute to be commenced in Circuit Court shall be deemed to be nonadversarial within the meaning of subsection (2) of this section and therefore are within the jurisdiction of the District Court.

Section 2. KRS 24A.230 is amended to read as follows:

(1) The small claims division shall have jurisdiction, concurrent with that of the District Court, in all civil actions, other than libel, slander, alienation of affections, malicious prosecution and abuse of process actions, when the amount of money or damages or the value of the personal property claimed does not exceed *two*[~~one~~] thousand five hundred dollars *($2,500)*[~~($1,500)~~] exclusive of interest and costs.

(2) The division may also be used in civil matters when the plaintiff seeks to disaffirm, avoid, or rescind a contract or agreement for the purchase of goods or services not in excess of *two*[~~one~~] thousand five hundred dollars *($2,500)*[~~($1,500)~~] exclusive of interest and costs.

(3) The division shall have authority to grant appropriate relief, except no prejudgment actions for attachment, garnishment, replevin or other provisional remedy may be filed in the division.

Section 3. KRS 24A.290 is amended to read as follows:

The defendant may file with the clerk a counterclaim against the plaintiff in an amount not in excess of ***two thousand five hundred***[~~fifteen hundred~~] dollars *($2,500)*[~~($1,500)~~] exclusive of interest and costs, if the counterclaim arose out of the same transaction or occurrence that is the subject matter of the plaintiff's claim, and if the counterclaim does not require for its adjudication the presence of third parties over whom the division cannot acquire jurisdiction. Any counterclaim shall be filed with the clerk, and a copy delivered to the plaintiff at least five (5) days prior to the time of the hearing. If the defendant's counterclaim is in excess of the jurisdictional limits of the division, then the provisions of KRS 24A.310(1) shall apply.

HB 667, AN ACT relating to claims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.072 is amended to read as follows:

It is the intention of the General Assembly to provide the means to enable a person negligently injured by the Commonwealth, any of its cabinets, departments, bureaus or agencies, or any of its officers, agents or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus or agencies to be able to assert their just claims as herein provided. The Commonwealth thereby waives the sovereign immunity defense only in the limited situations as herein set forth. It is further the intention of the General Assembly to otherwise expressly preserve the sovereign immunity of the Commonwealth, any of its cabinets, departments, bureaus or agencies or any of its officers, agents or employees while acting in the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus or agencies in all other situations except where sovereign immunity is specifically and expressly waived as set forth by statute***, or by the purchase of liability insurance or the establishment of a fund for self-insurance by the Commonwealth, its cabinets, departments, bureaus, agencies, officers, or employees to the extent of insurance coverage or fund limits. Any purchase of liability insurance or the establishment of any self-insurance fund shall be voluntary and shall constitute an express waiver of sovereign immunity for the Commonwealth, its cabinets, departments, bureaus, agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth, its cabinets, departments, bureaus, or agencies only to the extent of insurance coverage or fund limits***. The Board of Claims shall have exclusive jurisdiction to hear claims for damages, except as otherwise specifically set forth by statute ***or where sovereign immunity is expressly waived as set forth in this section***, against the Commonwealth, its cabinets, departments, bureaus, agencies or any of its officers, agents or employees while acting within the scope of their employment by the Commonwealth, its cabinets, departments, bureaus or agencies.

Section 2. KRS 44.073 is amended to read as follows:

(1) For purposes of KRS 44.072, state institutions of higher education under KRS Chapter 164 are agencies of the state.

(2) ***Except as provided by Section 1 of this Act,*** the Board of Claims shall have primary and exclusive jurisdiction over all negligence claims for the negligent performance of ministerial acts against the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any officers, agents, or employees thereof while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.

(3) ***Except as provided by Section 1 of this Act,*** the Board of Claims shall have primary and exclusive jurisdiction to make findings of fact, conclusions of law, and legal determinations with regard to whether the alleged negligent act was on the part of the Commonwealth or any of its cabinets, departments, bureaus, or agencies or any officers, agents, or employees thereof.

(4) ***Except as provided by Section 1 of this Act,*** the Board of Claims shall have primary and exclusive jurisdiction to make findings of fact, conclusions of law, and legal determinations with regard to whether the alleged negligent act was on the part of the Commonwealth or any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.

(5) ***Except as provided by Section 1 of this Act,*** no action for negligence against the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any officers, agents, or employees thereof may be brought initially in any other court or forum in the Commonwealth except the Board of Claims until the Board of Claims makes a determination, that has become final, that the Board of Claims has or does not have primary and exclusive jurisdiction over the claim.

(6) The determination by the Board of Claims becomes final only after all appellate rights have been finalized or waived.

(7) Any applicable statute of limitations for bringing negligence actions in any court or forum other than the Board of Claims shall be tolled pending the final determination that the Board of Claims does not have primary and exclusive jurisdiction of the negligence claim.

(8) ***Except as provided by Section 1 of this Act,*** no action for negligence may be brought in any court or forum other than the Board of Claims against the Commonwealth, any of its cabinets, departments, bureaus, or agencies or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.

(9) Negligence as used herein includes negligence, gross negligence, or wanton negligence.

(10) The defense of contributory negligence is not a complete bar to recovery of plaintiff's claim in the Board of Claims, and the doctrine of comparative negligence shall be utilized by the board.

(11) Except as otherwise provided by this chapter, nothing contained herein shall be construed to be a waiver of sovereign immunity or any other immunity or privilege maintained by the Commonwealth, its cabinets, departments, bureaus, and agencies and its officers, agents, and employees.

(12) Except as otherwise specifically set forth by statute and in reference to subsection (11) of this section, no action for

damages may be maintained in any court or forum against the Commonwealth, any of its cabinets, departments, bureaus, or agencies or any of its officers, agents, or employees while acting within their official capacity and scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.

(13) The preservation of sovereign immunity referred to in subsections (11) and (12) of this section includes, but is not limited to, the following:

(a) Discretionary acts or decisions;

(b) Executive decisions;

(c) Ministerial acts;

(d) Actions in the performance of obligations running to the public as a whole;

(e) Governmental performance of a self-imposed protective function to the public or citizens; and

(f) Administrative acts.

(14) The filing of an action in court or any other forum[~~ or the purchase of liability insurance or the establishment of a fund for self-insurance~~] by the Commonwealth, its cabinets, departments, bureaus, or agencies or its agents, officers, or employees thereof for a government-related purpose or duty shall not be construed as a waiver of sovereign immunity or any other immunity or privilege thereby held. Except as specifically set forth by statute, no counterclaim, set-off, recoupment, cross-claim, or other form of avoidance of the claim for damages may be asserted by any person when suit is brought against said person by the Commonwealth or any of its cabinets, departments, bureaus, or agencies thereof.

(15) Neither the Commonwealth nor any of its cabinets, departments, bureaus, or agencies or any officers, agents, or employees thereof shall be liable under a respondeat superior theory or any other similar theory for the acts of independent contractors, contractors, or subcontractors thereof or anyone else doing work or providing services for the state on a volunteer basis or pursuant to a contract therewith.

HB 668, AN ACT relating to government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 30A.060 is amended to read as follows:

(1) Each clerk shall prepare in a proper manner every bond to be taken by or given before him or his court.

(2) The clerk shall refuse any surety offered in a bond to be taken by him who is, in his opinion, insufficient.

(3) The clerk shall prepare bail bonds as required by subsection (1) of this section; however, ***additional public officers or employees shall be authorized by rule or order of the Kentucky Supreme Court to***[~~any other bonded public officers may~~] prepare and accept bail bonds to be taken by the clerk or for his court. Such bail bonds shall have the same validity as if prepared or taken by the clerk.

Section 2. KRS 186.490 is amended to read as follows:

The circuit clerk of each county shall:

(1) Comply with all rules and regulations issued by the cabinet under KRS 186.400 relating to his duties;

(2) Act for the cabinet for the purpose of issuing temporary operator's licenses and instruction permits;

(3) Administer the oath required by KRS 186.412 to the applicant without fee;

(4) Report and remit ***monthly***[~~each Monday~~] to the state all moneys collected during the preceding ***month***[~~week~~] and remit a copy of all applications taken by him during the same period to the Transportation Cabinet. Upon failure of any clerk to report and remit therefor more than seven (7) days after the due date, he shall pay, in addition to the amount due, a penalty of ten percent (10%) of the amount due. Penalties collected under this section shall be paid into the State Treasury as a part of the revenue collected under KRS 186.531;

(5) Keep adequate records of all moneys collected and remitted to the state; and

(6) Keep in his office at all times available to the cabinet a record of all temporary licenses issued in his county, all denials, cancellations, suspensions, revocations or withdrawals of operator's licenses or motorcycle operator's licenses within his county and, to the extent that he is advised, of all other withdrawals of the privilege to operate a motor vehicle on the highways.

Section 3. KRS 186.531 is amended to read as follows:

(1) The cost of operators' licenses and permits shall be as follows:

(a) The fee for a four (4) year original or renewal motor vehicle license shall be eight dollars ($8);

(b) The fee for a four (4) year original or renewal motorcycle operator's license shall be twelve dollars ($12) and a combination motor vehicle-motorcycle operator's license shall be eighteen dollars ($18);

(c) The fee for an instruction permit for a motor vehicle shall be two dollars ($2) plus four dollars ($4) for preparing and acknowledging the application;

(d) The fee for an instruction permit for a motorcycle shall be five dollars ($5) plus one dollar ($1) for preparing and acknowledging the application;

(e) The fee for a duplicate license shall be six dollars ($6);

(f) The fee for an identification card shall be four dollars ($4). The fee for a duplicate identification card shall be two dollars ($2); and

(g) Any applicant under the age of twenty-one (21) who meets the requirements for the issuance of a valid driver's license shall be issued a license valid until the date the applicant attains the age of twenty-one (21). The fee for the license shall be two dollars ($2) per year for the requisite number of years as set forth herein. The applicant shall have thirty (30) days after his twenty-first birthday in which to renew his driver's license.

(2) Except as provided in subsection (3) of this section, the circuit clerk shall deposit in the State Treasury to the credit of the general fund except as provided in ***paragraph (a),*** paragraph (f)***,*** and paragraph (g) of this subsection fees pertaining to applications and license fees in the following manner:

(a) ***Twenty-two per cent (22%) of the cost for the issuance of any original and renewal license shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees and providing salary adjustments for employees***[~~One dollar and seventy-five cents ($1.75) of any original and renewal license, except that the fee for a combination motor vehicle-motorcycle operator's license shall be three dollars ($3)~~];

(b) One dollar ($1) for issuance of any instruction permit;

(c) One dollar ($1) for preparing and acknowledging an application for an instruction permit;

(d) One dollar and twenty-five cents ($1.25) for preparing and acknowledging an application for a duplicate;

(e) One dollar and twenty-five cents ($1.25) for each identification card;

(f) For each original or renewal license one dollar ($1) shall be credited to a special account within the state road fund and shall be used by the Transportation Cabinet exclusively for the purpose of issuing a photo license. For each original or renewal motorcycle operator's license and each motorcycle instruction permit, four dollars ($4) shall be credited to a special account within the state road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to KRS 186.890;[~~ and~~]

(g) An applicant for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license shall have the opportunity to make a donation of one dollar ($1) to promote an organ donor program. The one dollar ($1) donation shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license. One (1) donation may be made per issuance or renewal of a license or any combination thereof. The fee shall be paid to the circuit clerk and shall be retained by the clerk to be used exclusively for the purpose of promoting an organ donor program. Organ donation shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license***; and***

(h) Three dollars ($3) for a combination motor vehicle-motorcycle operator's license.

(3) The following fees shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses:

(a) One dollar ($1) for issuing of an instruction permit;

(b) Three dollars ($3) for preparing and acknowledging an application for an instruction permit;

(c) Four dollars ($4) for preparing and acknowledging an application for a duplicate license;

(d) Ten dollars ($10) for preparing and acknowledging an application for a reinstatement fee; and

(e) These fees shall be in addition to other funds provided to the circuit clerk through the regular appropriation made by the General Assembly to the Administrative Office of the Courts.

(4) The remainder of all fees, and other moneys collected by the circuit clerk shall be forwarded to the state.

The Committee Substitute to **HB 668** is as follows:

AN ACT relating to government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 30A.060 is amended to read as follows:

(1) Each clerk shall prepare in a proper manner every bond to be taken by or given before him or his court.

(2) The clerk shall refuse any surety offered in a bond to be taken by him who is, in his opinion, insufficient.

(3) The clerk shall prepare bail bonds as required by subsection (1) of this section; however, ***additional public officials and their employees shall be authorized by rule or order of the Chief Circuit Judge to***[~~any other bonded public officers may~~] prepare and accept bail bonds to be taken by the clerk or for his court. Such bail bonds shall have the same validity as if prepared or taken by the clerk.

Section 2. KRS 186.490 is amended to read as follows:

The circuit clerk of each county shall:

(1) Comply with all rules and regulations issued by the cabinet under KRS 186.400 relating to his duties;

(2) Act for the cabinet for the purpose of issuing temporary operator's licenses and instruction permits;

(3) Administer the oath required by KRS 186.412 to the applicant without fee;

(4) Report and remit ***monthly***[~~each Monday~~] to the state all moneys collected during the preceding ***month***[~~week~~] and remit a copy of all applications taken by him during the same period to the Transportation Cabinet. Upon failure of any clerk to report and remit therefor more than seven (7) days after the due date, he shall pay, in addition to the amount due, a penalty of ten percent (10%) of the amount due. Penalties collected under this section shall be paid into the State Treasury as a part of the revenue collected under KRS 186.531;

(5) Keep adequate records of all moneys collected and remitted to the state; and

(6) Keep in his office at all times available to the cabinet a record of all temporary licenses issued in his county, all denials, cancellations, suspensions, revocations or withdrawals of operator's licenses or motorcycle operator's licenses within his county and, to the extent that he is advised, of all other withdrawals of the privilege to operate a motor vehicle on the highways.

Section 3. KRS 186.531 is amended to read as follows:

(1) The cost of operators' licenses and permits shall be as follows:

(a) The fee for a four (4) year original or renewal motor vehicle license shall be eight dollars ($8);

(b) The fee for a four (4) year original or renewal motorcycle operator's license shall be twelve dollars ($12) and a combination motor vehicle-motorcycle operator's license shall be eighteen dollars ($18);

(c) The fee for an instruction permit for a motor vehicle shall be two dollars ($2) plus four dollars ($4) for preparing and acknowledging the application;

(d) The fee for an instruction permit for a motorcycle shall be five dollars ($5) plus one dollar ($1) for preparing and acknowledging the application;

(e) The fee for a duplicate license shall be six dollars ($6);

(f) The fee for an identification card shall be four dollars ($4). The fee for a duplicate identification card shall be two dollars ($2); and

(g) Any applicant under the age of twenty-one (21) who meets the requirements for the issuance of a valid driver's license shall be issued a license valid until the date the applicant attains the age of twenty-one (21). The fee for the license shall be two dollars ($2) per year for the requisite number of years as set forth herein. The applicant shall have thirty (30) days after his twenty-first birthday in which to renew his driver's license.

(2) Except as provided in subsection (3) of this section, the circuit clerk shall deposit in the State Treasury to the credit of the general fund except as provided in ***paragraph (a),*** paragraph (f)***,*** and paragraph (g) of this subsection fees pertaining to applications and license fees in the following manner:

(a) ***Twenty-two per cent (22%) of the cost for the issuance of any original and renewal license shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees and providing salary adjustments for employees***[~~One dollar and seventy-five cents ($1.75) of any original and renewal license, except that the fee for a combination motor vehicle-motorcycle operator's license shall be three dollars ($3)~~];

(b) One dollar ($1) for issuance of any instruction permit;

(c) One dollar ($1) for preparing and acknowledging an application for an instruction permit;

(d) One dollar and twenty-five cents ($1.25) for preparing and acknowledging an application for a duplicate;

(e) One dollar and twenty-five cents ($1.25) for each identification card;

(f) For each original or renewal license one dollar ($1) shall be credited to a special account within the state road fund and shall be used by the Transportation Cabinet exclusively for the purpose of issuing a photo license. For each original or renewal motorcycle operator's license and each motorcycle instruction permit, four dollars ($4) shall be credited to a special account within the state road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to KRS 186.890;~~[and]~~

(g) An applicant for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license shall have the opportunity to make a donation of one dollar ($1) to promote an organ donor program. The one dollar ($1) donation shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license. One (1) donation may be made per issuance or renewal of a license or any combination thereof. The fee shall be paid to the circuit clerk and shall be retained by the clerk to be used exclusively for the purpose of promoting an organ donor program. Organ donation shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license***; and***

(h) Three dollars ($3) for a combination motor vehicle-motorcycle operator's license.

(3) The following fees shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses:

(a) One dollar ($1) for issuing of an instruction permit;

(b) Three dollars ($3) for preparing and acknowledging an application for an instruction permit;

(c) Four dollars ($4) for preparing and acknowledging an application for a duplicate license;

(d) Ten dollars ($10) for preparing and acknowledging an application for a reinstatement fee; and

(e) These fees shall be in addition to other funds provided to the circuit clerk through the regular appropriation made by the General Assembly to the Administrative Office of the Courts.

(4) The remainder of all fees, and other moneys collected by the circuit clerk shall be forwarded to the state.

HB 689, AN ACT relating to juvenile justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.135 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "State agency children" means:

1. Those children of school age committed to or in custody of the Cabinet for Human Resources and placed, or financed by the cabinet, in a Cabinet for Human Resources operated or contracted institution, treatment center, or facility, or placed or financed by the Cabinet for Human Resources in a private facility pursuant to child care agreements other than those for foster care;

2. Those children of school age in home and community-based services provided as an alternative to intermediate care facility services for the mentally retarded; and

3. Those children committed to or in custody of the Department of Juvenile Justice ***and placed in a department operated or contracted facility or program***~~[, except for children placed in a juvenile detention facility or jail as defined in KRS 15A.067]~~.

(b) "Current costs and expenses" means all expenditures, other than for capital outlay and debt service, which are in excess of the amount generated by state agency children under the Support Education Excellence in Kentucky funding formula pursuant to KRS 157.360. These expenditures are necessary to provide a two hundred thirty (230) day school year, smaller teacher pupil ratio, related services if identified on an individual educational plan, and more intensive educational programming.

(2) Unless otherwise provided by the General Assembly in a budget bill, any county or independent school district that provides elementary or secondary school services to state agency children shall be reimbursed through a contract with the Kentucky Educational Collaborative for State Agency Children. The school services furnished to state agency children shall be equal to those furnished to other school children of the district.

(3) The Kentucky Educational Collaborative for State Agency Children shall make to the chief state school officer the reports required concerning school services for state agency children, and shall file with the Cabinet for Human Resources unit operating or regulating the institution or day treatment center, or contracting for services, in which the children are located a copy of the annual report made to the chief state school officer.

(4) The Cabinet for Human Resources shall contract with a university-affiliated training resource center utilizing all funds generated by the children in state agency programs, except Oakwood and Hazelwood funds, and the funds in the Kentucky Department of Education budget, pursuant to this section, as well as any other educational funds for which all Kentucky children are entitled. The total of these funds shall be utilized to provide educational services through the Kentucky Educational Collaborative for State Agency Children established in KRS 605.110.

(5) Notwithstanding the provisions of any other statute, the Kentucky Educational Collaborative for State Agency Children shall operate a two hundred thirty (230) day school program.

Section 2. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary for human resources;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Department" means the Department for Social Services;

(4) "Child" means any person who has not reached his eighteenth birthday;

(5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;

(6) "Child-caring facility" means any institution or group home other than a state facility, ***a Department of Juvenile Justice contract facility or group home,*** or one (1) certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency licensed by the cabinet other than a state agency which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;

(8) "Adoption worker" means an employee of the cabinet designated as such by the secretary for human resources, a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;

(9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;

(10) "Group home" means a homelike facility***, excluding Department of Juvenile Justice operated or contracted facilities,*** for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;

(11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;

(12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons; and

(13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption.

(14) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. In the event the person was not represented by independent legal counsel, the consent shall be in writing, signed and sworn to by the consenting person and include the following:

(a) Date, time, and place of the execution of the consent;

(b) Name of the child, if any, to be adopted and the date and place of the child's birth;

(c) Consenting person's relationship to the child;

(d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;

(e) A statement that the consenting person understands that the consent will be final and irrevocable twenty (20) days after the execution of the consent if the placement was previously approved, if approval of the placement is required;

(f) Disposition of the child if the adoption is not adjudged;

(g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;

(h) A statement that the consenting person understands that the consent may only be withdrawn by written notification sent by certified or registered mail addressed to either the attorney for the consenting person or to the attorney for the adoptive parents, within thirty (30) days following the execution of the consent;

(i) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and

(j) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

Section 3. KRS 199.645 is amended to read as follows:

The Cabinet for Human Resources shall issue and enforce administrative regulations specifically addressing the unique situation of child-caring facilities and child-placing agencies which provide nonsecure care for children during the preadjudication phase of proceedings under KRS ***Chapter***[~~Chapters~~] 630[~~ and 635~~]. Such facilities and agencies shall include those operated privately and those operated by units of local government. These regulations shall include standards relating to the following:

(1) Administration;
(2) Personnel;
(3) Training and staff development;
(4) Recordkeeping;
(5) Physical plant;
(6) Security and control;
(7) Safety and emergency procedures;
(8) Sanitation and hygiene;
(9) Medical and health services;
(10) Food services;
(11) Intake and classification;
(12) Programs and services;
(13) Resident rights;
(14) Rules and discipline;
(15) Admission procedures;
(16) Communication, including mail, visitation and telephone;
(17) Release preparation and transfer programs; and
(18) Volunteer involvement.

Section 4. KRS 15A.065 is amended to read as follows:

The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:

(1) Prevention of juvenile crime;

(2) Identification of juveniles at risk of becoming status or public offenders and early intervention strategies for these children***, and, except for adjudicated youth, participation in prevention programs shall be voluntary***;

(3) Providing ***informational*** services to law enforcement, prosecution, victims, defense attorneys, and the public relating to juvenile crime, its prevention, detection, trial, punishment, and rehabilitation, and services for youth adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(4) [~~The operation of or contracting for the operation of preadjudication facilities for children charged with public offenses;~~

~~(5)~~]The operation of or contracting for the operation of postadjudication treatment facilities for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;

[~~(6) The operation of or contracting for the operation of preadjudication alternatives to detention and follow up programs for children who are before the court and who enter pretrial diversion or informal adjustment programs;~~

~~(7) The operation of or contracting for the operation of postadjudication alternatives to detention and follow-up programs, including but not limited to community based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of detention while achieving solutions to the child's problems and ensuring public safety;~~]

(5)[~~(8)~~] The operation or contracting for the operation of by the department, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;

(6)[~~(9)~~] Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;

(7)[~~(10)~~] Conducting research and comparative experiments to find the most effective means of:

(a) Preventing delinquent behavior;

(b) Identifying predelinquent youth;

(c) Preventing predelinquent youth from becoming delinquent;

(d) Assessing the needs of predelinquent and delinquent youth;

(e) Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth and youthful offenders;

(f) Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and

(g) Keeping the department, the educational community, police, prosecutors, the courts, and the public abreast of the latest programs, technology, counseling tools, and other aspects of juvenile counseling, correction, and treatment;

(8)[~~(11)~~] Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.

(9)[~~(12)~~] The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.

(10)[~~(13)~~] The Department of Juvenile Justice may contract with ***other agencies***[~~the cabinet~~] for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments.

(11)[~~(14)~~] The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall provide a formulation of and recommendations for meeting the requirements of this section not less than ***annually***[~~semiannually~~] to the Governor, the Justice Cabinet, the Department of Juvenile Justice, the Cabinet for Human Resources, the Interim Joint Committees on Judiciary and Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and Appropriations and Revenue committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion, and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. ***The advisory board shall review grant applications from local juvenile delinquency prevention councils and include in its annual report the activities of the councils.*** The advisory board shall meet not less than quarterly. The advisory board shall be chaired by a private citizen member appointed by the Governor. The advisory board shall consist of one (1) member of each of the following:

1. Justice Cabinet;
2. Department of Juvenile Justice;
3. Cabinet for Human Resources;
4. Department for Medicaid Services;
5. Department of Education;
6. Department of Public Advocacy;
7. Administrative Office of the Courts;
8. Workforce Development Cabinet;
9. Attorney General;
10. Kentucky Developmental Disabilities Council;
11. Circuit Judges Association;
12. District Court Judges Association;
13. Commonwealth's Attorneys Association;
14. County Attorneys Association;
15. County Judge/Executives Association;
16. A person eighteen (18) to twenty-five (25) years of age not associated with any other group listed in this paragraph;
17. A person from the business community not associated with any other group listed in this paragraph;
18. A parent not associated with any other group listed in this paragraph;
19. A youth advocate not associated with any other group listed in this paragraph;
20. A victim of a crime committed by a person under the age of eighteen (18) not associated with any other

group listed in this paragraph;

21. A local school district special education administrator not associated with any other group listed in this paragraph;

22. A peace officer not associated with any other group listed in this paragraph; and

23. A college or university professor specializing in law, criminology, corrections, or similar discipline with an interest in juvenile corrections programs.

Section 5. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available***, at a cost not to exceed the Medicaid reimbursement rate,*** to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Human Resources Residential, Day Treatment, Clinical, and Group Home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Human Resources and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Human Resources, Department for Social Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children.

(b) Teachers and other staff shall be hired on contract through a local school district or if the local school district is not willing to participate, teachers shall be hired by the Kentucky Educational Cooperative for State Agency Children. All certified educational staff of the Kentucky Educational Cooperative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;

2. A per pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children pursuant to KRS 156.0951;

3. A per pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;

4. A per pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;

5. The funding for school services for state agency children authorized by KRS 158.135; and

6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (e) of this subsection for the education of Kentucky's children.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Human Resources shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:
    a. Define the financial responsibility of each state and local agency for providing services to state agency children;
    b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Human Resources.

(e) The commissioner of Juvenile Justice and the secretary of the Cabinet for Human Resources and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 6. KRS 610.050 is amended to read as follows:

If it appears to the court, by affidavit or by sworn testimony, that the child is a danger to himself or the community, or is in such condition or surroundings that his welfare is being harmed or threatened with harm to such a degree that his best interest requires that his custody be immediately changed by the court from the original custodian to another, the judge may sign an order giving temporary custody of the child to a suitable custodian ***consenting to temporary custody***. However, if this case involves allegations of dependency, neglect or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed; and, if the case involves allegations of mental illness, the provisions of KRS Chapter 645 shall be followed. As a part of such order, the court may direct that the child shall be taken into custody by the peace officer serving the summons or by any other peace officer and placed as directed by the court. In any event, a copy of the temporary custody order shall be served on the parent, guardian or other person exercising custodial control or supervision of the child when the summons is served. The temporary custody order shall be effective until the case is heard on its merits or until modified by the court. As a result of such order, the child shall be placed in custody and care in a home or other suitable facility.

Section 7. KRS 610.080 is amended to read as follows:

Juvenile proceedings shall consist of two (2) distinct hearings, an adjudication and a disposition, which shall be held on separate days unless the child***, after consultation with an attorney,*** waives the right to a formal predisposition investigation report and moves that the hearings be held the same day. ***However, if the disposition is to be commitment, the child's waiver shall not be valid without the consent of the Department of Juvenile Justice or the cabinet.***

(1) The adjudication shall determine the truth or falsity of the allegations in the petition and shall be made on the basis of an admission or confession of the child to the court or by the taking of evidence.

(2) Unless otherwise exempted, upon motion by any child brought before the court on a petition under KRS 610.010(1)(a), (b), (c) or (d), the Rules of Criminal Procedure shall apply. All adjudications shall be supported by evidence beyond a reasonable doubt, unless specified to the contrary by other provisions of KRS Chapters 600 to 645. For actions under KRS 610.010(1)(e) the Kentucky Rules of Civil Procedure shall apply.

Section 8. KRS 610.120 is amended to read as follows:

(1) Except as otherwise provided by KRS ***Chapters***~~[Chapter]~~ ***605 and*** 635, an order of commitment or an order of protective supervision or probation made by the court in the case of a child may be~~[reviewed,]~~ continued~~[,]~~ or terminated at any time prior to expiration on the court's own initiative or on motion by:

(a) A child who is affected by an order of juvenile session of District Court;

(b) The family, custodian, guardian, or legal representative of such a child;

(c) The county attorney of the county in which the committing court presides; or

(d) Any other person having an interest in the welfare of the child.

(2) Grounds for such action may include but are not limited to allegations that there has been a substantial change of material circumstances, there exists new evidence affecting the disposition of the child, the child is no longer in need of commitment, probation, or placement, the child has not responded to or benefited from treatment or the child has not received adequate and proper treatment, the original proceedings were not conducted in the manner required by law or the public interest requires termination of the order. Upon review of the child's case, ***the Department of Juvenile Justice,*** the cabinet, any agency, facility or individual responsible for the supervision, care or treatment of the child, shall divulge and communicate such information regarding the child as the court may require.

Section 9. KRS 630.010 is amended to read as follows:

In addition to those purposes set forth in KRS 600.010, this chapter shall be interpreted and construed to effectuate the following purposes regarding status offenders:

(1) The Commonwealth's courts shall utilize a separate and distinct set of guidelines for status offenders which reflect their

individual needs;

(2) It shall be declared to be the policy of this Commonwealth that all its efforts and resources be directed at involving the child and the family in remedying the problem for which they have been referred;[~~ and~~]

(3) Detention of status offenders in secure juvenile detention facilities or juvenile holding facilities should only be used for very specific and constructive purposes, when all other less restrictive alternatives to detention have been attempted and are not feasible***; and***

(4) Status offenders shall not be converted into public offenders by virtue of status conduct.

Section 10. KRS 635.055 is amended to read as follows:

No child who is found to be in contempt of court shall be ***committed as a public offender as a result of such finding, nor*** detained because of such finding in a facility other than a secure juvenile detention facility or juvenile holding facility.

Section 11. KRS 635.100 is amended to read as follows:

(1) ***Any child committed to the Department of Juvenile Justice who is placed in a treatment facility or program and who escapes or is absent without leave shall be taken into custody and returned to the custody of the Department of Juvenile Justice by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.***

(2) Any child committed to the Department of Juvenile Justice who is placed on supervised placement[~~ from a residential treatment facility~~] by the Department of Juvenile Justice and who violates the terms or conditions of supervised placement may be taken into custody and returned to active custody of the Department of Juvenile Justice by any juvenile probation officer or by any peace officer on direction of the Department of Juvenile Justice.

(3)[~~(2)~~] The child may be taken into custody and held in ***a***[~~one of the~~] Department of Juvenile Justice ***facility, program, or contract facility,***[~~treatment facilities~~] prior to the administrative hearing, provided a preliminary hearing is held by a person designated by the Department of Juvenile Justice within ***five (5) days***[~~forty-eight (48) hours~~] of the holding to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection ***(4)***[~~(3)~~] of this section. The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be represented by counsel at the preliminary hearing.

(4)[~~(3)~~] If the child is returned to the active custody of the Department of Juvenile Justice pending a hearing, before readmitting the child to a treatment program pursuant to this section, except as provided in subsection ***(3)***[~~(2)~~] of this section, an administrative hearing shall be held within ten (10) working days of the ***preliminary hearing***[~~request to readmit the child to a treatment program~~] unless the child and his representative request or agree to a longer period of time. The hearing shall be held by ***one (1) hearing officer***[~~a three (3) member board~~] designated by the Department of Juvenile Justice to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel.

(5) Administrative hearings conducted under this section and administrative regulations promulgated under this section shall be exempt from the requirements of KRS Chapter 13B.

(6)[~~(4)~~] The Department of Juvenile Justice may promulgate administrative regulations to implement the provisions of this chapter.

Section 12. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) Health Policy Board

1. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B

2. Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for Human Resources

1. Department for Employment Services

a. Unemployment insurance hearings conducted under authority of KRS Chapter 341

2. Department for Health Services

a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

3. Department for Social Services

a. Supervised placement revocation hearings conducted under authority of KRS ***Chapter***[~~Chapters~~] 630[~~ and 635~~]

(d) Justice Cabinet

1. Department of State Police

a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

2. Department of Corrections

a. Parole Board hearings conducted under authority of KRS Chapter 439

b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197

3. Department of Juvenile Justice

a. Supervised placement revocation hearings conducted under KRS Chapter 635

(e) Labor Cabinet

1. Department of Workers' Claims

a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f) Natural Resources and Environmental Protection Cabinet

1. Department for Surface Mining Reclamation and Enforcement

a. Surface mining hearings conducted under authority of KRS Chapter 350

2. Department for Environmental Protection

a. Wild River hearings conducted under authority of KRS Chapter 146

b. Water resources hearings conducted under authority of KRS Chapter 151

c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223

d. Environmental protection hearings conducted under authority of KRS Chapter 224

(g) Kentucky Occupational Safety and Health Review Commission

1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(h) Public Protection and Regulation Cabinet

1. Board of Claims
   a. Liability hearings conducted under authority of KRS Chapter 44
2. Public Service Commission
   a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(i) Secretary of State

1. Registry of Election Finance
   a. Campaign finance hearings conducted under authority of KRS Chapter 121

(j) State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
3. Campus residency hearings conducted under authority of KRS Chapter 164
4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings;

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 13. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the ***Department of Juvenile*** Justice~~[Cabinet]~~ after consultation with~~[the Cabinet for Human Resources and]~~ other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, ***Department of Juvenile Justice contract facility or group home,*** or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the ***commitment is discharged under KRS Chapter 605 or the*** committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(15) "Department" means the Department for Social Services;

(16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility,~~[or]~~ a secure juvenile detention facility***, or an alternative form of detention***;

(18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(20) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(21) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment;

(22) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(23) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(24) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(25) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful

residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(26) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(27) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(28) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(29) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(30) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(31) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(32) "Juvenile holding facility" means a physically secure setting, approved by the ***Department of Juvenile*** Justice[~~Cabinet~~], which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the ***Department of Juvenile*** Justice[~~Cabinet~~] may supervise juvenile as well as adult prisoners;

(33) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(34) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(35) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(36) "Parent" means the biological or adoptive mother or father of a child;

(37) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(38) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(39) "Physical injury" means substantial physical pain or any impairment of physical condition;

(40) "Public offense action" means an action***, excluding contempt,*** brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(41) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(42) "Residential treatment facility" means a facility ***or group home*** with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(43) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(44) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(45) "Secretary" means the secretary of the Cabinet for Human Resources;

(46) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(47) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(48) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(49) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(50) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(51) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(52) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(53) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(54) "Youth alternative center" means a nonsecure facility, approved by the Department of ***Juvenile Justice***[~~Corrections~~], for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

(55) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 14. KRS 635.505 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) The "treatment program" means a continuum of services provided in community and institutional settings designed to provide early intervention and treatment services for juvenile sexual offenders.

(2) A "juvenile sexual offender" as used in this chapter means an individual who was at the time of the commission of the offense under the age of eighteen (18) years who is not actively psychotic or mentally retarded and who has been adjudicated guilty of or has been convicted of or pled guilty to:

(a) ***A felony***[~~An offense~~] under KRS Chapter 510;

(b) Any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510;

(c) Any ***felony***[~~offense~~] under KRS 506.010 when the crime attempted is a felony or misdemeanor described in KRS Chapter 510;

(d) An offense under KRS 530.020;

(e) An offense under KRS 530.064;[~~ or~~]

(f) An offense under KRS 531.310***; or***

(g) A misdemeanor offense under KRS Chapter 510.

Section 15. KRS 635.510 is amended to read as follows:

(1) A child***, thirteen (13) years of age or older, shall***[~~may~~] be declared a juvenile sexual offender if ***the child has been adjudicated guilty of an offense listed in subsection (2)(a), (b), (c), (d), (e), or (f) of Section 14 of this Act.***

(2) (a) A child, less than thirteen (13) years of age, may be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in subsection (2) of Section 14 of this Act.

(b) Any child, thirteen (13) years of age or older, may be declared a juvenile sexual offender if the child has been adjudicated guilty of an offense listed in subsection (2)(g) of Section 14 of this Act[~~:~~

~~(a) Prior to an adjudicatory hearing, there is reasonable cause to believe the child has committed an offense enumerated in KRS 635.505; or~~

~~(b) The court determines the alleged offender used physical force or threat of force, express or implied, in the commission of the act, or has a documented case history of a long-term pattern of sexual offenses~~].

(3)[~~(2)~~] Upon final adjudication by the juvenile court, the juvenile court judge or other authority designated by the juvenile court judge shall order a mental health assessment to be conducted on the child by the program or by a qualified mental health professional as defined in KRS 600.020 and approved by the program which shall recommend the appropriate course of treatment. Upon receipt of the findings of the assessment, the juvenile court judge or other authority designated by the juvenile court judge shall initiate a referral to the program for evaluation and treatment as indicated.

Section 16. KRS 635.515 is amended to read as follows:

(1) ***A***[~~If the juvenile court declares the~~] child ***declared***[~~to be~~] a juvenile sexual offender[~~, the individual~~] shall be committed to the custody of the Department of Juvenile Justice and shall receive treatment in a juvenile sexual offender treatment program for a minimum of two (2) years but not more than three (3) years, except that the juvenile sexual offender shall not remain in the care of the Department of Juvenile Justice after the age of twenty-one (21) years. If an individual in the care of the department as a juvenile sexual offender reaches the age of nineteen (19) years prior to the expiration of the minimum of two (2) years of treatment, that individual shall be returned to the sentencing court. At that time, the sentencing court may order the individual to complete the prescribed treatment.

(2) Based on the assessment and evaluation of the juvenile sexual offender and his family, the Department of Juvenile Justice shall utilize the treatment setting which provides the least restrictive alternative as defined in KRS 600.020.

(3) The program shall develop a written treatment agreement detailing the responsibilities of the juvenile sexual offender, his family, and the program to include but not be limited to: attendance; participation in education; participation in planning and completion of treatment goals; curfew; visit of appropriate staff to the home; participation in parenting groups and family counseling; continued contact with the program, schools, and courts; insurance of legal rights; and discharge criteria.

(4) The written treatment agreement shall be presented to the court, and the court shall include the agreement as part of the order except for good cause shown.

(5) The program shall be responsible for sending written reports every sixty (60) days to the juvenile court judge concerning the participation of the juvenile sexual offender and family in the treatment program. The written report shall include information about the treatment received by the juvenile sexual offender and family, an assessment of the offender's current condition, and recommendations by the program staff.

(6) The case may be called for review upon the recommendation of the program staff or by the juvenile court judge at any time during the course of treatment. The review may be called to consider documentation of noncompliance, absenteeism, or unwillingness to acknowledge responsibility for sexually-inappropriate behavior.

(7) A discharge review shall be requested by the program sixty (60) days prior to the recommended release date. The juvenile court judge shall schedule a hearing to formally consider the recommendation of release from the program.

Section 17. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child charged with a capital offense, Class A felony, or Class B felony, had attained age fourteen (14) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(3) If a child charged with a Class C or Class D felony has on one (1) prior separate occasion been adjudicated a public

offender for a felony offense and had attained the age of sixteen (16) at the time of the alleged commission of the offense, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(4) Any other provision of KRS Chapters 610 to 645 to the contrary notwithstanding, if a child charged with a felony in which a firearm was used in the commission of the offense had attained the age of fourteen (14) years at the time of the commission of the alleged offense, he shall be transferred to the Circuit Court for trial as an adult if, following a preliminary hearing, the District Court finds probable cause to believe that the child committed a felony, that a firearm was used in the commission of that felony, and that the child was fourteen (14) years of age or older at the time of the commission of the alleged felony. If convicted in the Circuit Court he shall be subject to the same penalties as an adult offender, except that until he reaches the age of eighteen (18) years, he shall be confined in a secure detention facility for juveniles or for youthful offenders, ***unless the provisions of Section 18 of this Act apply or*** unless ***he is*** released pursuant to expiration of sentence or parole, and at age eighteen (18) he shall be transferred to an adult facility operated by the Department of Corrections to serve any time remaining on his sentence.

(5) If a child previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with a felony allegedly committed prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(6) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, a misdemeanor, or a violation arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(7) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication, and after the county attorney has consulted with the Commonwealth's attorney, that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(8) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to Circuit Court.

SECTION 18. A NEW SECTION OF KRS CHAPTER 635 IS CREATED TO READ AS FOLLOWS:

(1) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youth, transferred under subsection (4) of Section 17 of this Act, committed to an adult facility operated by the Department of Corrections if it is established by a preponderance of the evidence that the juvenile:

(a) By his or her violent behavior, injured or endangered the life or health of another youthful offender or staff members in the facility or program;

(b) Escaped from the facility or program from which the juvenile is being held on more than one (1) occasion;

(c) By his or her actions, caused disruption in the facility or program by encouraging other residents to engage in violent behavior which has injured or endangered the life or health of other residents or staff of the facility or program;

(d) By his or her actions, caused disruption in the facility or program, smuggled contraband into the facility or program, caused contraband to be smuggled into the facility or program, or engaged in other types of behavior which have endangered the life or health of other residents or staff of the facility or program; or

(e) By his or her actions has established a pattern of disruptive behavior not conducive to the established policies and procedures of the program.

(2) The hearing described in subsection (1) of this section shall be held in the sentencing Circuit Court within ten (10) days of the filing of the motion provided for in subsection (1) of this section.

(3) Upon a youth's admission to a facility or program operated by the Department of Juvenile Justice, the department shall advise that youth of the provisions of this section.

(4) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youth committed to the Department of Corrections if the Department of Juvenile Justice establishes by a preponderance of the evidence that the youth is mentally ill, dangerous to himself or others, and cannot be adequately treated in the program. The court shall presume that a youth is mentally ill if the youth has pled guilty to, or has been convicted of, a felony and has been found by the court or jury to be guilty but mentally ill.

(5) Any youth remanded to the Department of Corrections under any provision of this chapter shall not later be placed in a facility operated by the Department of Juvenile Justice.

Section 19. KRS 640.070 is amended to read as follows:

(1) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youthful offender committed to an adult facility operated by the Department of Corrections if it is established by a preponderance of the evidence that the youthful offender has:

(a) By his violent behavior, injured or endangered the life or health of another youthful offender or staff members in the facility or program;

(b) Escaped from the facility or program from which he is being held on more than one (1) occasion;

(c) By his actions, caused disruption in the facility or program by encouraging other residents to engage in violent behavior which has injured or endangered the life or health of other residents or staff of the facility or program;

(d) By his actions, caused disruption in the facility or program, smuggled contraband into the facility or program, caused contraband to be smuggled into the facility or program, or engaged in other types of behavior which have endangered the life or health of other residents or staff of the facility or program; or

(e) By his actions has established a pattern of disruptive behavior not conducive to the established policies and procedures of the program.

(2) The hearing shall be held in the sentencing Circuit Court within ***ten (10)***[~~five (5)~~] days of the filing of the motion provided for in subsection (1) of this section.

(3) Upon admission to a facility or program operated by the Department of Juvenile Justice, the department shall advise the youthful offender of the provisions of this section.

(4) Upon motion of the Department of Juvenile Justice, the sentencing Circuit Court may, after notice and hearing, order a youthful offender committed to the Department of Corrections if it is established by a preponderance of the evidence that the youthful offender is mentally ill and is dangerous to himself or others, and cannot be adequately treated in the youthful offender program. It shall be presumed that a youthful offender is mentally ill if he has pled guilty to or has been convicted of a felony and has been found by the court or jury to be guilty but mentally ill.

(5) Any youth remanded to the Department of Corrections under any provision of this chapter shall not later be placed in a facility operated by the Department of Juvenile Justice.

Section 20. KRS 640.080 is amended to read as follows:

(1) Youthful offenders shall be subject to the jurisdiction of the Kentucky Parole Board and may be placed on parole to the Department of Corrections. The Parole Board may, with regard to a youthful offender, exercise any of the powers which it possesses pursuant to KRS Chapter 439, except as provided in KRS Chapters 600 to 645.

(2) A youthful offender parole violator shall, except as provided in KRS Chapters 635 and 640, be incarcerated in a secure juvenile detention facility until eighteen (18) years of age, unless released prior to that age. Upon reaching eighteen (18) years of age, an incarcerated violator shall be transferred to the Department of Corrections.

Section 21. The following KRS section is repealed:

635.540 Board meetings -- Annual report.

HB 690, AN ACT relating to juvenile justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240 and 15A.990:

(1) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the ***Department of Juvenile*** Justice[~~ Cabinet~~] after consultation with[~~ the Cabinet for Human Resources and~~] other appropriate state agencies;

(2) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(3) "Juvenile holding facility" means a physically secure setting, approved by the ***Department of Juvenile*** Justice[~~ Cabinet~~], which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed exclusively by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the ***Department of Juvenile*** Justice[~~ Cabinet~~] may supervise juvenile as well as adult prisoners; and

(4) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined.

Section 2. KRS 15A.210 is amended to read as follows:

The ***Department of Juvenile***[~~Justice~~] Cabinet shall issue and enforce administrative regulations to govern at least the following aspects of the operation of secure juvenile detention facilities ***and juvenile holding facilities***:

(1) Administration;
(2) Personnel;
(3) Training and staff development;
(4) Recordkeeping;
(5) Physical plant;
(6) Security and control;
(7) Safety and emergency procedures;
(8) Sanitation and hygiene;
(9) Medical and health services;
(10) Food services;
(11) Intake and classification;
(12) Programs and services;
(13) Residents' rights;
(14) Rules and discipline;
(15) Admission procedures;
(16) Communication, including mail, visitation and telephone;
(17) Release preparation and transfer programs; and
(18) Volunteer involvement.

Section 3. KRS 15A.220 is amended to read as follows:

(1) On or before July 1, ***1998***[~~1988~~], each person or organization operating a secure juvenile detention facility shall register with the Justice Cabinet and shall comply with the regulations issued pursuant to KRS 15A.210.

(2) After July 1, ***1998***[~~1988~~], each organization operating or seeking to operate a secure juvenile detention facility ***or juvenile holding facility*** shall:

- (a) Apply to the ***Department of Juvenile*** Justice[~~ Cabinet~~] in a period of time set by regulation prior to the scheduled opening of the secure juvenile detention facility ***or juvenile holding facility***;
- (b) Permit inspection of the secure juvenile detention facility ***or juvenile holding facility*** by the ***Department of Juvenile*** Justice[~~ Cabinet~~] not less than thirty (30) days prior to the scheduled opening of the[~~ secure juvenile detention~~] facility; and
- (c) Supply to the ***Department of Juvenile*** Justice[~~ Cabinet~~] not less than thirty (30) days prior to the scheduled opening of the secure juvenile detention facility all data, plans, and other materials required by the Justice Cabinet.

(3) No secure juvenile detention facility ***or juvenile holding facility*** shall operate after July 1, ***1998***[~~1988~~], except with the approval of the ***Department of Juvenile*** Justice[~~ Cabinet~~].

Section 4. KRS 15A.230 is amended to read as follows:

(1) After July 1, ***1998***[~~1988~~], the ***Department of Juvenile*** Justice[~~ Cabinet~~] shall inspect, at least annually, each registered secure juvenile detention facility to assure its compliance with administrative regulations.

(2) After July 1, ***1998***[~~1988~~], the ***Department of Juvenile*** Justice[~~ Cabinet~~] may require reports and other data at least annually from each secure juvenile detention facility ***and juvenile holding facility***.

Section 5. KRS 15A.240 is amended to read as follows:

(1) The ***Department of Juvenile*** Justice[~~ Cabinet~~] shall enforce the provisions of KRS 15A.210 to 15A.230 and the administrative regulations issued thereunder.

(2) The ***Department of Juvenile*** Justice[~~ Cabinet~~] may institute legal proceedings, including, but not limited to, injunctive remedies, to secure compliance with the provisions of KRS 15A.210 to 15A.230.

Section 6. KRS 15A.250 is amended to read as follows:

There is hereby created in the State Treasury the "Local Alternatives to Detention Fund" to be administered by the ***Department of Juvenile*** Justice[~~ Cabinet~~] for the purposes set forth in KRS 15A.260. The fund may receive moneys from state appropriations, the federal government, donations, or other sources. Moneys in the fund shall not lapse.

Section 7. KRS 15A.270 is amended to read as follows:

(1) The ***Department of Juvenile*** Justice~~[Cabinet]~~ shall promulgate and enforce administrative regulations to govern at least the following aspects of the operation of the local alternatives-to-detention fund:

(a) Application procedures, including granting and denying applications;

(b) Program and funding restrictions;

(c) Program and funding reports;

(d) Termination of programs; and

(e) Other related matters.

(2) Administrative hearings promulgated by administrative regulation under authority of this section shall be conducted in accordance with KRS Chapter 13B.

SECTION 8. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of the Justice Cabinet;

(2) "Commissioner" means the commissioner of the Department of Juvenile Justice;

(3) "Department" means the Department of Juvenile Justice;

(4) "Facility" means any facility operating under the authority or control of the Department of Juvenile Justice; and

(5) "Cabinet" means the Justice Cabinet.

SECTION 9. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the Department of Juvenile Justice may, with the approval of the Finance and Administration Cabinet, purchase liability insurance for the protection of health care professionals employed by or serving the department to protect them from liability for acts and claims of medical and professional malpractice arising in the course and scope of their employment or service to the department.

(2) The commissioner may purchase the type and amount of liability coverage deemed appropriate to best serve the department's interest.

Section 10. KRS 200.115 is amended to read as follows:

(1) The cabinet ***or the Department of Juvenile Justice, as appropriate,*** is authorized and may pay for such care and treatment as it deems necessary for the well-being of any child committed to it, including medical expenses, room and board, clothing, and all other necessities for such children committed to its care and custody, but only if no similar services are rendered by other agencies.

(2) Where the person having charge of the child is able to pay for the care or treatment or portions thereof, the court shall so direct and in what amounts, and such funds as he is able to pay shall be turned over to the cabinet ***or the Department of Juvenile Justice, as appropriate,*** or the person having custody and care of the child to be applied on the cost of the treatment and care of the child.

Section 11. KRS 605.100 is amended to read as follows:

(1) The Department of Juvenile Justice or the cabinet shall arrange for a program of care, treatment, and rehabilitation of the children committed to it, which program shall be designed to provide for classification, segregation, and specialized treatment of children according to their respective problems, needs, and characteristics, and to provide a coordinated system of probation and parole services.

(2) The Department of Juvenile Justice or the cabinet shall be responsible for the operation, management, and development of the existing state facilities for the custodial care and rehabilitation of children committed to ***the Department of Juvenile Justice or*** the cabinet under provisions of this chapter. The Department of Juvenile Justice or the cabinet shall further be responsible for the development of such facilities as are necessary to provide an adequate and modern program for the care, treatment, and rehabilitation of such children.

(3) The facilities and programs under the control of the Department of Juvenile Justice or the cabinet shall be designed and operated in such a manner as to rehabilitate, train, develop, and educate the children to become good citizens and useful members of society.

(4) Suitable programs of vocational education and training shall be carried on in the facilities and programs, with the view of preparing the children for future self-support.

(5) The children in each facility and program shall be employed so far as practicable in labor incident to the maintenance and operation of the facility and program, and in suitable industries conducted by the facilities and programs as a part of the vocational training program.

(6) The superintendent or managing officer of each facility may use, for the maintenance of the facility, the products of farms, dairies, and other departments and industries of the facility, or may sell or exchange such products for the benefit of the facility.

Section 12. KRS 605.150 is amended to read as follows:

(1) The cabinet may promulgate administrative regulations to implement the provisions of this chapter.

(2) The Department of Juvenile Justice may promulgate administrative regulations to implement the provisions of this chapter.

(3) The cabinet and the department shall not promulgate administrative regulations under this chapter that conflict.

Section 13. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the District Court of each county shall have exclusive jurisdiction in proceedings concerning any child living or found within the county who has not reached his eighteenth birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who allegedly:

(a) Has committed a public offense prior to his eighteenth birthday, except a motor vehicle offense involving a child sixteen (16) years of age or older. A child sixteen (16) years of age or older taken into custody upon the allegation that he has committed a motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the District Court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility. The term "motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony;

(b) Has not subjected himself to the reasonable control of his parent or guardian, school personnel, or other person exercising custodial control or supervision of the child;

(c) Is an habitual truant from school;

(d) Is an habitual runaway from his parent or other person exercising custodial control or supervision of the child;

(e) Is dependent, neglected, or abused; or

(f) Is mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be public offense actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status offense actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of Circuit Courts over adoptions and proceedings for termination of parental rights. The court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for his custody; however, if the case involves allegations of dependency, neglect, or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the Circuit Court awarding custody of such child, all prior orders of the juvenile session of the District Court in conflict therewith shall be deemed canceled. This section shall not work to deprive the Circuit Court of jurisdiction over cases filed in Circuit Court.

(7) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state shall have concurrent jurisdiction over such child with the court of the county wherein the child resides or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(8) Nothing in this chapter shall prevent the District Court from holding a child in contempt of court to enforce ***valid court*** orders previously issued by the court.

(9) Except as provided in KRS 635.060(3), nothing in this chapter shall confer upon the District Court jurisdiction over the actions of the ***Department of Juvenile Justice or the*** cabinet in the placement, care, or treatment of a child committed to the ***Department of Juvenile Justice or the*** cabinet; or to require the ***department or the*** cabinet to perform, or to refrain from performing, any specific act in the placement, care, or treatment of any child committed to the ***department or the***

cabinet.

(10) Unless precluded by KRS Chapter 635 or 640, in addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

(11) The court shall have continuing jurisdiction over a child pursuant to subsection (1) of this section, to review dispositional orders, and to conduct dispositional hearings under 42 U.S.C. sec. 675(5)(c), until the child is placed for adoption, returned home to his parents with all the court imposed conditions terminated, or reaches the age of eighteen (18) years.

Section 14. KRS 610.060 is amended to read as follows:

(1) If the Circuit or District Court determines that a formal proceeding is required in the interest of the child or to determine the truth or falsity of the allegations against the child, a petition shall be required pursuant to KRS 610.020, and the court shall, when the child is brought before the court:

(a) Explain to the child and his parents, guardian, or person exercising custodial control their respective rights to counsel and, if the child and his parents, guardian, or person exercising custodial control are unable to obtain counsel, shall appoint counsel for the child and, unless specified to the contrary by other provisions of KRS Chapters 600 to 645, may appoint counsel for the parents, guardian, or person exercising custodial control;

(b) Explain the right against self-incrimination by saying that the child, parents, relative, guardian, or custodian may remain silent concerning the charges against the child, and that anything said may be used against the child;

(c) Unless limited by statute, explain the right to confront anyone who has accused the child and to cross-examine that person on the allegations made against the child;

(d) Advise the child and his parents, guardian, or person exercising custodial control of the right to appeal from a determination of the court; and

(e) Advise the child that these rights belong to him and may not be waived by his parents, guardian, or person exercising custodial control.

(2) Unless otherwise exempted in KRS Chapters 600 to 645, a child and his parents or person exercising custodial control shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing.

(3) Subject to the provisions of KRS 31.125, the court may order a parent to pay for counsel for the child if the court determines that the parent has the ability to pay for such counsel. ***The fact that a child is committed to a state agency shall not be cause for the court to order that agency to pay for counsel.***

(4) Subject to Rule 43.09 of the Rules of Civil Procedure, the court shall permit the victim, the victim's parents or legal guardian, or, if emancipated, the victim's spouse, or the legal representative of any of these, to attend all proceedings under this section.

(5) An attempt shall be made to notify the persons specified in subsection (4) of this section of the time, date, and place of all proceedings under this section. Each District Court shall, by rule, establish the means of notification and the person or agency responsible for making the notifications. The failure of a victim or other person specified in subsection (4) of this section to receive notice shall not delay the proceedings in the case.

Section 15. KRS 610.070 is amended to read as follows:

(1) All cases involving children brought before the court whose cases are under the jurisdiction of the court shall be granted a speedy hearing and shall be dealt with by the court without a jury.

(2) The hearings shall be conducted in a formal manner, unless specified to the contrary by other provisions of KRS Chapters 600 to 645.

(3) The general public shall be excluded and only the immediate families or guardians of the parties before the court, witnesses necessary for the prosecution and defense of the case, the probation worker with direct interest in the case, ***a representative from the Department of Juvenile Justice,*** the victim, his parent or legal guardian, or if emancipated, his spouse, or a legal representative of either, such persons admitted as the judge shall find have a direct interest in the case or in the work of the court, and such other persons as agreed to by the child and his attorney may be admitted to the hearing. A parent, legal guardian, or spouse if a witness shall be admitted to the hearing only during and after his testimony at the hearing, and witnesses shall be admitted to the hearing only for the duration of their testimony. The court may order the exclusion of a parent, legal guardian, or spouse, if it is shown to the satisfaction of the court that the parent, legal guardian, or spouse may physically disrupt the proceedings or may do violence to any participant therein. The mere presence of a parent, legal guardian, or spouse shall not be deemed to be a disruption of the proceedings merely because their presence may make the defendant uncomfortable; the court shall find a potential for actual physical disruption of the proceedings before an exclusion may be granted for this reason.

(4) The court may order the parents, guardians, or persons exercising custodial control over the child to be present at any hearing or other proceeding involving the child.

Section 16. KRS 610.100 is amended to read as follows:

(1) Unless there is a suitable prior disposition investigation report or unless waived by the child, before making disposition

of the case of a child brought before the court under the provisions of KRS Chapters 630 or 635, whether by complaint pursuant to KRS 610.020, or by reason of having been taken into custody pursuant to KRS 610.190, the judge shall cause an investigation to be made concerning the nature of the specific act complained of and any surrounding circumstances which suggest the future care and guidance which should be given the child. The investigation shall include an inquiry into the child's age, habits, school record, general reputation, and everything that may pertain to his life, and character. The investigation shall also include an inquiry into the home conditions, life, and character of the person having custody of the child. The investigation shall also include an assessment of the parent or guardian's ability to pay all or part of the cost of the child's care and treatment should the child be ordered into a treatment program or placed on supervised probation. The result of the investigation shall be reported in writing to the court and to counsel for the parties three (3) days prior to the child's dispositional hearing and shall become a part of the record of the proceedings. The child may waive the three (3) day requirement. Objections by counsel at the dispositional hearing to portions of the dispositional report shall be noted in the record.

(2) The investigation shall be conducted by volunteer or salaried probation officers of the juvenile court or by a suitable public or private agency. The cabinet and the Department of Juvenile Justice may furnish investigation services under agreements with the individual juvenile courts. For this purpose, any county judge/executive or chief executive officer of an urban-county government may enter into a contract on behalf of his county with the ***Department of Juvenile Justice or the*** cabinet for the furnishings of such services.

(3) Upon the court's motion or the motion of any party, an informal adjustment may be made at any time during the proceedings and with the victim and with those persons specified in KRS 610.070 having prior notification of the motion.

Section 17. KRS 610.170 is amended to read as follows:

If it appears from the investigation required in KRS 610.100 or otherwise that the parent or other person exercising custodial control or supervision of any child, or the estate of any child, who has been found to fall within the purview of KRS Chapters 600 to 645 and who has been left in his own home or in the home of a relative, placed on probation or placed in a foster home or boarding home, or in the care of a public or private facility or agency, or the Department of Juvenile Justice or the cabinet, is able to contribute to the support of the child, the court shall~~[, if a petition has been filed,]~~ enter an order requiring the parent or estate to pay a reasonable sum for the support, maintenance, or education of the child. The order shall direct that the money be paid to the circuit clerk to be disbursed as ordered by the court or be paid to the person, facility, agency, or the Department of Juvenile Justice or cabinet to which the child was committed or probated. On application and on such notice as the court may direct, the court may make alterations in the requirement for contribution. The court may issue such orders necessary to compel payment of the sum due. The enforcement of a sentence imposed on a parent who fails to comply with the order of the court may be suspended at the discretion of the court, but the suspension may be revoked at the discretion of the court upon the failure of the parent to obey further orders of the court. This section shall not apply when the parent or other person exercising custodial control or supervision of the child was the victim of the child's criminal conduct or filed the complaint against the child.

Section 18. KRS 610.200 is amended to read as follows:

(1) When a peace officer has taken or received a child into custody on a charge of committing an offense, the officer shall immediately inform the child of his constitutional rights and afford him the protections required thereunder, notify the parent, or if the child is committed, ***the Department of Juvenile Justice or*** the cabinet, ***as appropriate,*** and if the parent is not available, then a relative, guardian, person exercising custodial control or supervision of the child, that the child has been taken into custody, give an account of specific charges against the child, including the specific statute alleged to have been violated, and the reasons for taking the child into custody.

(2) Unless the child is subject to trial as an adult or unless the nature of the offense or other circumstances are such as to indicate the necessity of retaining the child in custody, the officer shall release the child to the custody of his parent or if the child is committed, the Department of Juvenile Justice ***or the cabinet, as appropriate***, or if the parent is not available, then a relative, guardian, person exercising custodial control or supervision or other responsible person or agency approved by the court upon the written promise, signed by such person or agency, to bring the child to the court at a stated time or at such time as the court may order. The written promise, accompanied by a written report by the officer, shall be submitted forthwith to the court or court-designated worker and shall detail the reasons for having taken custody of the child, the release of the child, the person to whom the child was released, and the reasons for the release.

(3) If the person fails to produce the child as agreed or upon notice from the court~~, a~~ summons, warrant, or custody order may be issued for the apprehension of the person or of the child, or both.

(4) The release of a child pursuant to this section shall not preclude a peace officer from proceeding with a complaint against a child or any other person.

(5) Unless the child is subject to trial as an adult, if the child is not released, the peace officer shall contact the court-designated worker who may:

(a) Release the child to his parents;

(b) Release the child to such other persons or organizations as are authorized by law;

(c) Release the child to either of the above subject to stated conditions; or

(d) Authorize the peace officer to retain custody of the child for an additional period not to exceed twelve (12) hours during which the peace officer may transport the child to a secure juvenile detention facility or juvenile holding facility. If the child is retained in custody, the court-designated worker shall give notice to the child's parents or person exercising custodial control or supervision of the fact that the child is being retained in custody.

Section 19. KRS 610.267 is amended to read as follows:

(1) Any other provision of KRS Chapters 600 to 645 to the contrary notwithstanding, any county or charter county[~~ that operates a secure detention facility for juveniles~~] may construct, operate, or contract for the operation of a youth alternative center.

(2) The youth alternative center shall be a nonsecure facility and shall be under the jurisdiction of the county jailer or a correctional services division established pursuant to KRS 67A.028.

(3) The youth alternative center shall be used only for the detention of juveniles. The youth alternative center shall not be part of a county jail or other facility which houses adult offenders.

(4) The youth alternative center may be used as a place of detention for juveniles by order of a court prior to adjudication and after adjudication regardless of whether the child is a status offender, public offender, or youthful offender.

(5) A judge shall not be required to house a juvenile in a youth alternative center if he believes that the youth alternative center lacks the security necessary for the detention of that particular juvenile. If the child requires a more secure facility, the judge may order his detention in a more appropriate facility authorized by law.

(6) The Department of ***Juvenile Justice***[~~Corrections~~] shall promulgate administrative regulations relating to the construction, reconstruction, remodeling, and operations of youth alternative centers.

Section 20. KRS 610.330 is amended to read as follows:

(1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635 (with regard to status offenses, misdemeanors, or violations only), or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his juvenile court record, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult. He shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court, a representative of the ***Department of Juvenile Justice or the*** cabinet, or any other interested person may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his unconditional release from commitment to the ***Department of Juvenile Justice or the*** Cabinet for Human Resources or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.

(2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.

(3) The court shall order sealed all records in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or private elementary and secondary school records, if at the hearing the court finds that:

(a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the ***Department of Juvenile Justice, the*** cabinet***,*** or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1)(a); and

(b) No proceeding concerning a felony and no petition under KRS 610.010(1)(a) is pending or being instituted against him.

(4) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.

(5) Copies of the order shall be sent to each agency or official named therein.

(6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Section 21. KRS 610.360 is amended to read as follows:

(1) Court costs commensurate with those in District or Circuit Court, as appropriate, shall be charged by the juvenile session of District Court against juveniles who are informally adjusted, or found delinquent because of status offenses or public offenses and by the Circuit Court against juveniles who are found to be youthful offenders.

(2) Where possible, court costs shall be assessed against the child, but they may be assessed against the child's parent or legal guardian.

(3) Court costs shall not be assessed against a parent or guardian who is the complainant against the child or who has been the victim of the child's acts.

(4) ***In the case of children who have been committed, court costs shall not be assessed against the Department of Juvenile Justice or the cabinet.***

(5) The court may require juveniles to pay court costs on the installment plan or in any other manner provided for fines by KRS Chapter 534 or to engage in community labor at state minimum wage rates to pay off their court costs. Labor to pay court costs shall be in addition to community labor ordered for other purposes.

Section 22. KRS 635.090 is amended to read as follows:

(1) If the court chooses to treat the child as other than a youthful offender, if the Commonwealth fails to prove the criteria bringing a case under KRS Chapter 640 or if the county attorney elects not to proceed under KRS Chapter 640, the court may:

(a) If a child is fourteen (14) years of age or older, and is adjudicated a public offender in the commission of a capital offense, Class A felony, or Class B felony, the court in its discretion may commit the child to the Department of Juvenile Justice for purposes of treatment or placement in a facility or program for an indeterminate period of time not less than six (6) months. The ***Department of Juvenile Justice***[~~cabinet~~] may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday; or

(b) If a child is sixteen (16) years of age or older, and is adjudicated a public offender in the commission of a felony offense and has previously been adjudicated delinquent of one (1) or more felony offenses not arising out of the same course of conduct in separate adjudications, or has previously been adjudicated a public offender for one (1) or more felony offenses not arising out of the same course of conduct in separate adjudications, the court in its discretion may commit the child to the Department of Juvenile Justice for purposes of treatment or placement in a facility or program for an indeterminate period of time not less than six (6) months. The Department of Juvenile Justice may petition the court to continue the commitment for the purpose of completing a treatment program, but the commitment shall not extend past the child's nineteenth birthday.

(2) The Department of Juvenile Justice shall maintain jurisdiction over the child during the period of the commitment. The committing court may, upon motion of the Department of Juvenile Justice, order the child released from the facility or program operated by the Department of Juvenile Justice.

(3) The Department of Juvenile Justice shall notify the committing court if it transfers the child to a different facility or program and note the reasons for the transfer.

(4) The Department of Juvenile Justice shall notify the committing court prior to the termination of treatment or placement as to the future intentions of the Department of Juvenile Justice as they relate to continued treatment of the child.

(5) The committing court may, upon motion of the child, grant shock probation to any child committed under this section after the child has been committed for a minimum of thirty (30) days.

(6) After a child has been committed to the Department of Juvenile Justice as provided in this section, he may not then be transferred to the Circuit Court as provided for in KRS 640.020.

SECTION 23. A NEW SECTION OF KRS CHAPTER 635 IS CREATED TO READ AS FOLLOWS:

The Department of Juvenile Justice may promulgate administrative regulations to implement provisions of this chapter.

Section 24. KRS 640.050 is amended to read as follows:

(1) Any period of probation or conditional discharge required by the sentencing court to be served shall be supervised, as the court may determine by written order, by:

(a) The Department of Juvenile Justice;

(b) The Department of Corrections; or

(c) The designated representative of either of the above.

(2) The ***Department of Juvenile Justice***[~~Cabinet for Human Resources~~] may make recommendations to the Circuit Court concerning the disposition of the youthful offender.

(3) The court may order any of the above alternatives without regard to the age of the youthful offender.

Section 25. KRS 640.100 is amended to read as follows:

All officials of the ***Department of Juvenile Justice***[~~Cabinet for Human Resources~~] and the Department of Corrections shall furnish members of the Parole Board, or its properly accredited representatives:

(1) Access at all reasonable times to any youthful offender over whom the board has jurisdiction under this chapter;

(2) Facilities for communicating with and observing the youthful offender;

(3) The reports the board requires concerning the conduct and character of any youthful offender in its custody; and

(4) Any other facts deemed pertinent by the board in determining whether the youthful offender shall be paroled.

Section 26. KRS 640.110 is amended to read as follows:

When a youthful offender is transferred to the Department of Corrections in accordance with this chapter, the ***Department of Juvenile Justice***[~~Cabinet for Human Resources~~] shall transfer a copy of all records relating to the youthful offender to the Department of Corrections.

Section 27. KRS 645.250 is amended to read as follows:

(1) The cabinet may promulgate administrative regulations to implement the provisions of this chapter.

(2) ***The Department of Juvenile Justice may promulgate administrative regulations to implement the provisions of this chapter.***

(3) The cabinet shall promulgate administrative regulations to insure that necessary and appropriate treatment is provided to children hospitalized under this chapter, including the establishment of:

(a) Reasonable time periods in which an individualized written treatment plan shall be developed, reviewed, and revised in accordance with each child's needs and progress; and

(b) Procedures so that a hospitalized child, his parent or other person exercising custodial control or supervision, including the state if applicable, can obtain an independent medical review of the appropriateness of decisions made to continue hospitalization or to discharge a child.

(4) The cabinet and the department shall not promulgate administrative regulations under this chapter which conflict.

Section 28. The following KRS section is repealed:

441.057 Administrative regulations governing juvenile holding facilities.

HB 692, AN ACT relating to sex offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.510 is amended to read as follows:

(1) The cabinet shall develop and implement a sex offender registration system which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.

(2) [~~Beginning January 1, 1995,~~]Any person eighteen (18) years of age or older at the time of the offense ***or any youthful offender*** who ***has committed or attempted***[~~is released on probation, shock probation, conditional discharge by the court, parole, or a final discharge from a penal institution for committing or attempting~~] to commit a sex crime shall, within ***ten (10)***[~~fourteen (14)~~] days after his release, ***by the court, the parole board, or the cabinet,*** register with the local probation and parole office in the county in which he resides.

(3) [~~Beginning January 1, 1995,~~]Any person ***required to register pursuant to subsection (2) of this section***[~~who is discharged, paroled, or released on shock probation from a jail, prison, or other institution where he was confined because of the commission or attempt to commit a sex crime~~] shall, prior to discharge, parole, or release, be informed of the duty to register under this section by the ***court or the*** official in charge of the place of confinement. The ***court or the*** official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained to the person. The ***court or the*** official in charge of the place of confinement shall require the releasee to complete the registration form. The official shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(4) ***The court or the official shall order the person to register with the appropriate local probation and parole office.***

(5) The registration form shall be forwarded by the clerk of the court or the official to the Information Services Center, Kentucky State Police, Frankfort, Kentucky[~~Beginning January 1, 1995, any person who is sentenced in this state pursuant to a guilty plea or a jury verdict of conviction of the commission or attempt to commit a sex crime and who is released on probation or conditional discharge shall prior to release or discharge be informed by the court in which the person has been convicted of the duty to register with the local probation and parole office in the county in which he resides. The court shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained and order the person to register with the local probation and parole office. Upon completion of the registration form, the probation and parole office shall send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky~~].

[~~(5) Beginning January 1, 1995,~~]

(6) Any person who has pled guilty or been convicted in another state of the commission or attempt to commit a sex crime and who remains under active probation or parole supervision at the time of his relocation to Kentucky shall be informed of the duty to register under this section by the interstate compact officer of the Department of Corrections ***or the Department of Juvenile Justice***. The officer shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained. The officer shall require the person to complete the registration form. The officer shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(7)[~~(6)~~] The registration form shall be a written statement signed by the person which shall include sex offender information.

(8) For purposes of this section, and Sections 2 to 17 of this Act, a post office box number shall not be considered an address.

(9)[~~(7)~~] If the residence address of any registrant changes, the person shall register, within ***ten (10)***[~~fourteen (14)~~] days of the change of address, with the ***appropriate*** local probation and parole office in the county of his new residence. The ***appropriate*** local probation and parole office shall send this information to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(10)[~~(8)~~] Any person required to register under this section who violates any of the provisions of this section is guilty of a Class A misdemeanor.

(11)[~~(9)~~] Any person required to register under this section who knowingly provides false, misleading, or incomplete information is guilty of a Class A misdemeanor.

(12)[~~(10)~~] The appropriate court, parole authority, or corrections agency shall be immediately notified to consider revocation of the parole, probation, or conditional discharge of any person released under its authority who has failed to register within the prescribed time period as required by this section.

(13)[~~(11)~~] The statement required by subsection ***(6)***[~~(5)~~] of this section shall not be open to inspection by the public and may only be accessible to law enforcement agencies.

(14)[~~(12)~~] Any person who disseminates, receives, or otherwise uses or attempts to use information in the registry database, knowing the dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor.

SECTION 2. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 17 of this Act, the following definitions shall apply:

(1) "The board" means the Sex Offender Risk Assessment Advisory Board" created under Section 4 of this Act;

(2) "Sex offender" means a person who has been convicted of a sex crime as defined in KRS 17.500 who suffers from a mental or behavioral abnormality or personality disorder characterized by a pattern or repetitive, compulsive behavior that makes the offender a threat to public safety;

(3) "High risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a high risk of recommitting a sex crime. This term means the same as a sexually violent predator which is the term used in the federal acts. A person determined to be a sexually violent predator in a federal jurisdiction or in another state will be classified as a high risk sex offender for the purpose of this section;

(4) "Moderate risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Advisory Board that have been demonstrated to correlate with a moderate risk of recommitting a sex crime;

(5) "Low risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a low risk of recommitting a sex crime;

(6) "Mental or behavioral abnormality" means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that individual to the commission of a sex crime;

(7) "Personality disorder" means a condition where a person exhibits personality traits which are inflexible and maladaptive and cause either significant functional impairment or subjective distress;

(8) "Certified provider" means a mental health professional certified by the Sex Offender Risk Assessment Advisory Board to conduct sexual offender risk assessments pursuant to KRS 532.050 or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045.; and

(9) "Victim" means victim as defined by KRS 421.500.

SECTION 3. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Except as provided, no person shall conduct sexual offender risk assessments pursuant to Sections 2 to 17 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045, without first obtaining a certification from the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) A Sex Offender Risk Assessment Advisory Board is hereby created. The board shall certify providers who shall conduct sexual offender risk assessments pursuant to Sections 2 to 17 of this Act, or presentence assessments

pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045.

(2) The board shall develop a risk assessment procedure that shall be used by certified providers in assessing the risk of a repeat offense by a sex offender and the threat posed to public safety. The procedure shall be based upon, but not limited to the following factors:

- *(a) Criminal history;*
- *(b) Nature of the offense;*
- *(c) Conditions of release that minimize risk;*
- *(d) Physical conditions that minimize risk;*
- *(e) Psychological or psychiatric profiles;*
- *(f) Recent behavior that indicates an increased risk of re-offending;*
- *(g) Recent threats or gestures against persons or expressions of an intent to commit additional offenses; and*
- *(h) Review of the victim impact statement.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

The board shall consist of the members named in subsections (1) and (2) of this section:

(1) (a) The commissioner of the Department of Corrections, or the commissioner's designee;

- *(b) The program administrator of the Sex Offender Treatment Program created pursuant to KRS 197.400; and*
- *(c) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee.*

(2) The following members, appointed by the Governor:

- *(a) One (1) probation and parole officer;*
- *(b) Three (3) mental health professionals licensed or certified pursuant to KRS Chapter 309, 311, 314, 319, or 335 who have demonstrated expertise in working with sex offenders;*
- *(c) One (1) professional working in an agency which provides services to adult or child victims of sex offenses; and*
- *(d) One (1) representative of an advocacy group with a demonstrated interest in the welfare of victims of sex offenses.*

(3) The Governor shall appoint the first chair of the board who shall serve for a term of two (2) years after which the chair shall be elected by the members of the board.

(4) The probation and parole officer and the members identified in subsection (2) of this section shall serve for the remainder of the term of office of the Governor during whose incumbency they were appointed, unless removed sooner for cause.

(5) No member appointed pursuant to subsection (4) of this section may be represented by a designee.

(6) No member appointed pursuant to subsection (4) of this section shall serve more than four (4) years unless reappointed.

(7) All members identified under subsection (1) of this section shall serve during their terms of office.

(8) All members of the board shall be reimbursed for their necessary travel and other expenses actually incurred in the discharge of their duties on the board.

(9) The board shall be empowered to create committees for the purpose of carrying out its statutory duties.

(10) The board shall be attached to the Department of Corrections for administrative purposes.

SECTION 6. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The board may issue, refuse to issue, reissue, or renew a provider certificate, or may probate, suspend, or revoke the certificate of a provider who conducts sexual offender assessments.

(2) The board shall revoke the certificate of a provider who conducts sexual offender assessments while his certification is suspended.

SECTION 7. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the refusal to issue, renew, suspend, or revoke the certificate of a provider, the board shall conduct a hearing in accordance with the provisions of this chapter and KRS Chapter 13B.

- *(a) The hearing may be conducted by a hearing officer;*
- *(b) The hearing officer may only issue a recommended order, and the recommended order shall be subject to*

review by a majority of the full board, which shall issue a final order.

(2) The board may proceed against a certified provider on its own initiative, on the basis of either information contained in its own records, or information obtained through its informal investigation.

(3) If a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization, containing allegations that if true would warrant action, the board may proceed against the certified provider.

(4) Any final order of the board may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.

SECTION 8. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

A quorum of the board shall consist of at least five (5) members. The concurring votes of four (4) members shall be considered as the action of the board, except in the case of revoking a certificate, in which case the unanimous vote of the board shall be required.

SECTION 9. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry out the purposes of Sections 2 to 17 of this Act.

(2) The board may promulgate administrative regulations requiring mandatory continuing education for certified providers conducting sexual offender risk assessments pursuant to Sections 2 to 17 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045, as a condition for obtaining their renewal certificates.

SECTION 10. A NEW SECTION OF KRS CHAPTER 10 IS CREATED TO READ AS FOLLOWS:

Only persons certified under Sections 2 to 17 of this Act may be known as certified providers in the Commonwealth of Kentucky, or use any words or letters or assume any titles or description tending to convey the impression that they are certified providers who conduct sexual offender risk assessments pursuant to Sections 2 to 17 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045.

SECTION 11. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

Whenever in the judgment of the board any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of Sections 2 to 17 of this Act, the board may apply to the Franklin Circuit Court for an order enjoining these acts or practices.

(1) Upon a showing by the board that a person has engaged, or is about to engage, in any of these acts or practices, an injunction, restraining order, or other appropriate order shall be granted by the court.

(2) Any order of the Franklin Circuit Court shall be enforceable and shall be valid anywhere in this state and the order of the court shall be reviewable as provided in the Rules of Civil Procedure in the case of other injunctions and restraining orders.

SECTION 12. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Upon conviction of a "sex crime" as defined in KRS 17.500, and within sixty (60) calendar days prior to the discharge, release, or parole of a sex offender, the sentencing court shall order a sex offender risk assessment by a certified provider for the following purposes:

  (a) To determine whether the offender should be classified as a high, moderate or low risk sex offender;

  (b) To determine the length of time a sex offender shall register pursuant to KRS 17.500; and

  (c) To determine the type of community notification that shall be provided upon the release of the sex offender.

(2) In making the determination of risk, the sentencing court shall review the recommendations of the certified provider along with any statement by a victim or victims and any materials submitted by the sex offender.

(3) The court shall also allow the sex offender to appear and be heard.

(4) The court shall inform the sex offender of the right to have counsel appointed in accordance with KRS 31.070 and KRS 31.110.

(5) If the sentencing court risk determination differs from the recommendation of the certified provider, the court shall issue findings that provide the basis for rejecting the recommendation of the certified provider.

(6) Upon release, either by probation, conditional discharge, parole, or serve-out, the sentencing court or the official in charge of the place of commitment shall forward the risk determination that the sentencing court has issued for that sex offender to the sheriff of the county to which the offender is to be released.

SECTION 13. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) If the offender is determined to be a high risk sex offender, the notification shall include offender information as defined in KRS 17.500, the address of the offender, and any special conditions imposed by the court or the Parole

Board. The following individuals shall be notified:

(a) The law enforcement agency having jurisdiction;

(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;

(c) Victims who have requested to be notified;

(d) The Information Services Center, Kentucky State Police;

(e) Any agency, organization, or group serving individuals who have similar characteristics to the previous victims of the offender, if the agency, organization, or group has filed a request for notification with the local sheriff; and

(f) The general public through statewide media outlets and by any other means as technology becomes available.

(2) Upon a finding by the sentencing court that the offender is a high risk sexual offender, the designation shall continue until the sentencing court determines that the individual is no longer a high risk sex offender.

(3) An offender who has been designated by the sentencing court to be a high risk sex offender shall upon his release by the court, parole board, or the cabinet, be required to register for his lifetime in accordance with the provisions of KRS 17.510 and shall be subject to community notification pursuant to this section and Section 14 of this Act.

(4) If the offender is determined to be a moderate risk sex offender, the notification shall include offender information as defined in KRS 17.500, the zip code in which the offender resides, and any special conditions imposed by the court or the Parole Board. The following individuals shall be notified by the sheriff of the county to which the offender is released:

(a) The law enforcement agency having jurisdiction;

(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;

(c) Victims who have requested to be notified;

(d) The Information Services Center, Kentucky State Police; and

(e) Any agency, organization, or group serving individuals who have similar characteristics to the previous victim or victims of the sexual offender, if the agency, organization, or group has filed a request for notification with the local sheriff.

(5) If the offender is determined to be a low risk sex offender, the notification shall include offender information as defined in KRS 17.500 and the following individuals shall be notified by the sheriff of the county to which the offender is released:

(a) The law enforcement agency having jurisdiction;

(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;

(c) Victims who have requested to be notified, and

(d) The Information Services Center, Kentucky State Police.

SECTION 14. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Any statutes to the contrary notwithstanding, all state or local detention or correctional facilities, hospitals, or institutions shall forward all relevant information pertaining to a sex offender to be discharged, paroled, or released to the certified provider for review prior to the release or discharge for consideration in making recommendations to the sentencing court. The relevant information shall include but is not limited to:

(a) The institutional record;

(b) The medical record including all psychological records; and

(c) The treatment record.

(2) All confidential records provided pursuant to this section shall remain confidential, unless otherwise ordered by a court, or by another person duly authorized to release the information.

SECTION 15. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Communications made in the course of sexual offender risk assessments pursuant to Sections 2 to 17 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, or KRS 532.045 to a certified provider and any employee of a certified provider who is assigned to assist in the assessments, shall be privileged from disclosure in any civil or criminal proceeding, unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The sexual offender shall be informed in writing of the limits of the privilege created in this section.

SECTION 16. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) A person designated a "high risk sex offender" and required to register for his lifetime pursuant to the provisions of

this chapter may be relieved of any further duty to register upon the grant of a petition for relief by the sentencing court entered no earlier than ten (10) years after the date of discharge from probation, parole, or release from incarceration, whichever is most recent.

(2) Upon receipt of the petition for relief, the sentencing court shall request an updated assessment to a certified provider.

(3) The sentencing court shall conduct a second hearing as provided in Section 12 of this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 3 of this Act shall be fined not less than five hundred dollars ($500) nor more than three thousand dollars ($3,000) and said fine shall be paid to the Crime Victim Compensation Fund as established in KRS Chapter 346.

The Committee Substitute to **HB 692** is as follows:

AN ACT relating to sex offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.510 is amended to read as follows:

(1) The cabinet shall develop and implement a sex offender registration system which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.

(2) [~~Beginning January 1, 1995, ~~]Any person eighteen (18) years of age or older at the time of the offense ***or any youthful offender*** who ***has committed or attempted***[~~is released on probation, shock probation, conditional discharge by the court, parole, or a final discharge from a penal institution for committing or attempting~~] to commit a sex crime shall, within ***ten (10)***[~~fourteen (14)~~] days after his release, ***by the court, the parole board, or the cabinet,*** register with the ***appropriate*** local probation and parole office in the county in which he resides.

(3) [~~Beginning January 1, 1995, ~~]Any person ***required to register pursuant to subsection (2) of this section***[~~who is discharged, paroled, or released on shock probation from a jail, prison, or other institution where he was confined because of the commission or attempt to commit a sex crime~~] shall[~~, prior to discharge, parole, or release,~~] be informed of the duty to register under this section by the ***court at the time of sentencing and by the*** official in charge of the place of confinement ***upon release***. The ***court and the*** official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained to the person. The ***court and the*** official in charge of the place of confinement shall require the releasee to complete the ***acknowledgment***[~~registration~~] form ***and the court or the official shall retain the original completed form***. The official shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(4) ***The court or the official shall order the person to register with the appropriate local probation and parole office.***

(5) [~~Beginning January 1, 1995, any person who is sentenced in this state pursuant to a guilty plea or a jury verdict of conviction of the commission or attempt to commit a sex crime and who is released on probation or conditional discharge shall prior to release or discharge be informed by the court in which the person has been convicted of the duty to register with the local probation and parole office in the county in which he resides. The court shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained and order the person to register with the local probation and parole office. Upon completion of the registration form, ~~]The ***appropriate*** probation and parole office shall send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

[~~(5) Beginning January 1, 1995,~~]

(6) Any person who has pled guilty or been convicted in another state of the commission or attempt to commit a sex crime and who remains under active probation or parole supervision at the time of his relocation to Kentucky shall be informed of the duty to register under this section by the interstate compact officer of the Department of Corrections ***or the Department of Juvenile Justice***. The officer shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained. The officer shall ***order***[~~require~~] the person to complete the registration form. The officer shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(7)[~~(6)~~] The registration form shall be a written statement signed by the person which shall include sex offender information.

(8) For purposes of this section, and Sections 3 to 18 of this Act, a post office box number shall not be considered an address.

(9)[~~(7)~~] If the residence address of any registrant changes, the person shall register, within ***ten (10)***[~~fourteen (14)~~] days of the change of address, with the ***appropriate*** local probation and parole office in the county of his new residence. The ***appropriate*** local probation and parole office shall send this information to the Information Services Center, Kentucky State Police, Frankfort, Kentucky.

(10)[~~(8)~~] Any person required to register under this section who violates any of the provisions of this section is guilty of a Class A misdemeanor.

(11)[~~(9)~~] Any person required to register under this section who knowingly provides false, misleading, or incomplete information is guilty of a Class A misdemeanor.

(12)[~~(10)~~] The appropriate court, parole authority, or corrections agency shall be immediately notified to consider revocation of the parole, probation, or conditional discharge of any person released under its authority who has failed to register within the prescribed time period as required by this section.

(13)[~~(11)~~] The statement required by subsection *(6)*[~~(5)~~] of this section shall not be open to inspection by the public and may only be accessible to law enforcement agencies.

(14)[~~(12)~~] Any person who disseminates, receives, or otherwise uses or attempts to use information in the registry database, knowing the dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor.

Section 2. KRS 17.520 is amended to read as follows:

(1) Persons classified as high risk sex offenders as provided by subsection (3) of Section 3 of this Act shall remain registered for the lifetime of the offender, unless redesignated pursuant to Section 17 of this Act.

(2) Persons *classified as low or moderate risk sex offenders*[~~required to register pursuant to the provisions of KRS 17.510~~] shall remain registered for a period of ten (10) years following their discharge from confinement or ten (10) years following their maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.

(3) If a sex offender is re-incarcerated for another offense or as the result of having violated the terms of probation parole, or conditional discharge the registration requirements are tolled during the subsequent incarceration.

SECTION 3. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 18 of this Act, the following definitions shall apply:

(1) "The board" means the Sex Offender Risk Assessment Advisory Board created under Section 5 of this Act;

(2) "Sex offender" means a person who has been convicted of a sex crime as defined in KRS 17.500 who suffers from a mental or behavioral abnormality or personality disorder characterized by a pattern or repetitive, compulsive behavior that makes the offender a threat to public safety;

(3) "High risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a high risk of recommitting a sex crime. This term means the same as a sexually violent predator as defined by 42 U.S.C. sec. 14071. A person determined to be a sexually violent predator in a federal jurisdiction or in another state will be classified as a high risk sex offender for the purpose of this section;

(4) "Moderate risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Advisory Board that have been demonstrated to correlate with a moderate risk of recommitting a sex crime;

(5) "Low risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a low risk of recommitting a sex crime;

(6) "Mental or behavioral abnormality" means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that individual to the commission of a sex crime;

(7) "Personality disorder" means a condition where a person exhibits personality traits which are inflexible and maladaptive and cause either significant functional impairment or subjective distress;

(8) "Certified provider" means a mental health professional certified by the Sex Offender Risk Assessment Advisory Board to conduct sexual offender risk assessments pursuant to Sections 3 to 18 of this Act, or presentence assessment pursuant to KRS 532.050 or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045.; and

(9) "Victim" means victim as defined by KRS 421.500.

SECTION 4. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Except as provided, no person shall conduct sexual offender risk assessments pursuant to Sections 3 to 18 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045, without first obtaining a certification from the Sex Offender Risk Assessment Advisory Board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) A Sex Offender Risk Assessment Advisory Board is hereby created. The board shall certify providers who shall conduct sexual offender risk assessments pursuant to Sections 3 to 18 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045.

(2) The board shall develop a risk assessment procedure that shall be used by certified providers in assessing the risk of recommitting a sex crime by a sex offender and the threat posed to public safety. The procedure shall be based upon, but not limited to the following factors:

(a) Criminal history;

(b) Nature of the offense;

(c) Conditions of release that minimize risk;

(d) Physical conditions that minimize risk;

(e) Psychological or psychiatric profiles;

(f) Recent behavior that indicates an increased risk of recommitting a sex crime;

(g) Recent threats or gestures against persons or expressions of an intent to commit additional offenses; and

(h) Review of the victim impact statement.

SECTION 6. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

The board shall consist of the members named in subsections (1) and (2) of this section:

(1) (a) The commissioner of the Department of Corrections, or the commissioner's designee;

(b) The commissioner of the Department of Juvenile Justice, or the commissioner's designee;

(c) The program administrator of the Sex Offender Treatment Program created pursuant to KRS 197.400; and

(d) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee.

(2) The following members, appointed by the Governor:

(a) One (1) probation and parole officer;

(b) Four (4) mental health professionals licensed or certified pursuant to KRS Chapter 309, 311, 314, 319, or 335 who demonstrated expertise in working with sex offenders;

(c) One (1) professional working in an agency which provides services to adult or child victims of sex offenses; and

(d) One (1) representative of an advocacy group with a demonstrated interest in the welfare of victims of sex offenses.

(3) The Governor shall appoint the first chair of the board who shall serve for a term of two (2) years after which the chair shall be elected by the members of the board.

(4) The probation and parole officer and the members identified in subsection (2) of this section shall serve for the remainder of the term of office of the Governor during whose incumbency they were appointed, unless removed sooner for cause, but they shall remain on the board until their successors are appointed or until they are reappointed.

(5) No member appointed pursuant to subsection (4) of this section may be represented by a designee.

(6) No member appointed pursuant to subsection (4) of this section shall serve more than four (4) years unless reappointed.

(7) All members identified under subsection (1) of this section shall serve during their terms of office.

(8) All members of the board shall be reimbursed for their necessary travel and other expenses actually incurred in the discharge of their duties on the board.

(9) The board shall be empowered to create committees for the purpose of carrying out its statutory duties.

(10) The board shall be attached to the Department of Corrections for administrative purposes.

SECTION 7. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The board may issue, refuse to issue, reissue, or renew a provider certificate, or may probate, suspend, or revoke the certificate of a provider who conducts sexual offender assessments.

(2) The board shall revoke the certificate of a provider who conducts sexual offender assessments while his certification is suspended.

SECTION 8. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the refusal to issue, renew, probate, suspend, or revoke the certificate of a provider, the board shall conduct a hearing in accordance with the provisions of this chapter and KRS Chapter 13B.

(a) The hearing may be conducted by a hearing officer;

(b) The hearing officer may only issue a recommended order, and the recommended order shall be subject to review by a majority of the full board, which shall issue a final order.

(2) The board may proceed against a certified provider on its own initiative, on the basis of either information contained in its own records, or information obtained through its informal investigation.

(3) If a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization containing allegations that if true would warrant action, the board may proceed against the certified provider.

(4) Any final order of the board may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.

SECTION 9. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

A quorum of the board shall consist of at least six (6) members. The concurring votes of five (5) members shall be considered as the action of the board, except in the case of revoking a certificate, in which case the concurring votes of at least seven (7) members shall be required.

SECTION 10. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of Sections 3 to 18 of this Act.

(2) The board may promulgate administrative regulations requiring mandatory continuing education for certified providers to continue conducting sexual offender risk assessments pursuant to Sections 3 to 18 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045, as a condition for obtaining their renewal certificates.

SECTION 11. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Only persons certified under Sections 3 to 18 of this Act may be known as certified providers in the Commonwealth of Kentucky, or use any words or letters or assume any titles or description tending to convey the impression that they are certified providers who conduct sexual offender risk assessments pursuant to Sections 3 to 18 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, and KRS 532.045.

SECTION 12. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Whenever in the judgment of the board any person has engaged, or is about to engage, in any acts or practices that constitute, or will constitute, a violation of Sections 3 to 18 of this Act, the board may apply to the Franklin Circuit Court for an order enjoining these acts or practices.

(1) Upon a showing by the board that a person has engaged, or is about to engage, in any of these acts or practices, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

(2) Any order of the Franklin Circuit Court shall be enforceable and shall be valid anywhere in this state and the order of the court shall be reviewable as provided in the Rules of Civil Procedure in the case of other injunctions and restraining orders.

SECTION 13. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Upon conviction of a "sex crime" as defined in KRS 17.500, and within sixty (60) calendar days prior to the discharge, release, or parole of a sex offender, the sentencing court shall order a sex offender risk assessment by a certified provider for the following purposes:

(a) To determine whether the offender should be classified as a high, moderate or low risk sex offender;

(b) To designate the length of time a sex offender shall register pursuant to KRS 17.500 to 17.540; and

(c) To designate the type of community notification that shall be provided upon the release of the sex offender pursuant to KRS 17.500 to 17.540.

(2) The sex offender shall pay for any assessment required pursuant to Sections 3 to 18 of this Act up to the offender's ability to pay, but not more than the actual cost of the assessment.

(3) In making the determination of risk, the sentencing court shall review the recommendations of the certified provider along with any statement by a victim or victims and any materials submitted by the sex offender.

(4) The court shall conduct a hearing in accordance with the Rules of Criminal Procedure and shall allow the sex offender to appear and be heard.

(5) The court shall inform the sex offender of the right to have counsel appointed in accordance with KRS 31.070 and

KRS 31.110.

(6) The sentencing court shall issue findings of fact and conclusions of law and enter an order designating the level of risk.

(7) The order designating risk shall be subject to appeal.

(8) Upon release, either by probation, conditional discharge, parole, or serve-out, the sentencing court or the official in charge of the place of commitment shall forward the risk determination that the sentencing court has issued for that sex offender to the sheriff of the county to which the offender is to be released.

SECTION 14. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) If the offender is determined to be a high risk sex offender, the notification shall include offender information as defined in KRS 17.500 and any special conditions imposed by the court or the Parole Board. The Social Security number of the offender shall not be released to those persons identified in paragraphs (c), (d), and (f) of this subsection. The following individuals shall be notified by the sheriff of the county to which the offender is to be released:

(a) The law enforcement agency having jurisdiction;

(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;

(c) Victims who have requested to be notified;

(d) The Information Services Center, Kentucky State Police;

(e) Any agency, organization, or group serving individuals who have similar characteristics to the previous victims of the offender, if the agency, organization, or group has filed a request for notification with the local sheriff; and

(f) The general public through statewide media outlets and by any other means as technology becomes available.

(2) Upon a finding by the sentencing court that the offender is a high risk sexual offender, the designation shall continue until the sentencing court determines that the individual is no longer a high risk sex offender.

(3) An offender who has been designated by the sentencing court to be a high risk sex offender shall upon his release by the court, parole board, or the cabinet, be required to register for his lifetime in accordance with the provisions of KRS 17.510 and shall be subject to community notification pursuant to this section and Section 15 of this Act.

(4) If the offender is determined to be a moderate risk sex offender, the notification shall include offender information as defined under KRS 17.500, the zip code in which the offender resides, and any special conditions imposed by the court or the Parole Board. The Social Security number, personal residential address, and vehicle registration shall not be disclosed to the individuals identified in paragraphs (c) and (e) of this subsection. The following individuals shall be notified by the sheriff of the county to which the offender is released:

(a) The law enforcement agency having jurisdiction;

(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;

(c) Victims who have requested to be notified;

(d) The Information Services Center, Kentucky State Police; and

(e) Any agency, organization, or group serving individuals who have similar characteristics to the previous victim or victims of the sexual offender, if the agency, organization, or group has filed a request for notification with the local sheriff.

(5) If the offender is determined to be a low risk sex offender, the notification shall include offender information as defined in KRS 17.500. The Social Security number, personal residential address, and vehicle registration shall not be disclosed to the persons identified in paragraph (c) of this subsection. The following individuals shall be notified by the sheriff of the county to which the offender is released:

(a) The law enforcement agency having jurisdiction;

(b) The law enforcement agency having had jurisdiction at the time of the offender's conviction;

(c) Victims who have requested to be notified, and

(d) The Information Services Center, Kentucky State Police.

SECTION 15. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Any statutes to the contrary notwithstanding, all state or local detention or correctional facilities, hospitals, or institutions shall forward all relevant information pertaining to a sex offender to be discharged, paroled, or released to the certified provider for review prior to the release or discharge for consideration in making recommendations to the sentencing court. The relevant information shall include but is not limited to:

(a) The institutional record;

(b) The medical record including all psychological records; and

(c) The treatment record.

(2) All confidential records provided pursuant to this section shall remain confidential, unless otherwise ordered by a court, or by another person duly authorized to release the information.

SECTION 16. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Communications made in the course of sexual offender risk assessments pursuant to Sections 3 to 18 of this Act, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, KRS 439.267, or KRS 532.045 to the certified provider and any employee of the certified provider who is assigned to assist in the assessments, shall be privileged from disclosure in any civil or criminal proceeding, unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The sexual offender shall be informed in writing of the limits of the privilege created in this section.

SECTION 17. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) A person designated a "high risk sex offender" and who is required to register for his lifetime pursuant to the provisions of this chapter may be relieved of any further duty to register upon the grant of a petition for relief by the sentencing court entered no earlier than ten (10) years after the date of discharge from probation, parole, or release from incarceration, whichever is most recent. If the petition is denied, the person may petition for relief from the high risk designation every five (5) years thereafter.

(2) Upon receipt of the petition for relief, the sentencing court shall request an updated assessment to a certified provider.

(3) The sentencing court shall conduct a second hearing as provided in Section 13 of this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 4 of this Act shall be fined not less than five hundred dollars ($500) nor more than three thousand dollars ($3,000) and said fine shall be paid to the Crime Victim Compensation Fund as established in KRS Chapter 346.

Section 19. The provisions of Sections 1 through 20 of this Act shall apply to persons individually sentenced or incarcerated after the effective date of this Act.

Section 20. Sections 2, 4, 13, 14, 15, 16, 17, and 18 of this Act take effect January 15, 1999. An emergency is declared to exist, and Sections 1, 3, 5, 6, 7, 8, 9, 10, 11, and 12 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 692** is as follows:

By amending the title to read as follows:

"AN ACT relating to sex offenders and declaring an emergency."

HB 725, AN ACT relating to consent decrees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) When a state agency as specified in KRS 12.020 or any other state entity specified as a state agency by statute is involved in a legal proceeding or potential legal proceeding and the agency is planning to, or it has been proposed that the agency, enter into a consent decree with regard thereto, the following actions shall be taken. The agency shall:

(a) Forthwith make written notification to the Governor, the Attorney General, and the director of the Legislative Research Commission, with an explanation of the situation, the proposed terms of the consent decree, the amount of money which will be needed to comply with the consent decree, and whatever other information the agency deems appropriate;

(b) Appear before the standing committee of the General Assembly if the General Assembly is in session, or the interim joint committee of the Legislative Research Commission if the General Assembly is not in session, having oversight of the agency to testify under oath and to provide the information requested by the committee or subcommittee;

(c) If additional funding or the transfer of funds will be necessary to comply with any portion of the consent decree within the existing or next four (4) fiscal years, appear before the Appropriations and Revenue Committee of the General Assembly if the General Assembly is in session, or the Interim Joint Committee on

Appropriations and Revenue of the Legislative Research Commission if the General Assembly is not in session, to testify under oath and to explain the funding and related needs generated by the consent decree; and

(d) Not enter into the consent decree without the written approval of the Governor and the Attorney General.

(2) The provisions of this section do not apply to the following types of consent decrees:

(a) A consent decree authorizing or committing the expenditure of less than five hundred thousand dollars ($500,000), unless smaller amounts equaling or exceeding five hundred thousand dollars ($500,000) are expended in an effort to circumvent the limit imposed by this paragraph; or

(b) A consent decree which does not obligate the Commonwealth or a state agency thereof to expend funds, or labor or other thing in lieu of funds, or create any liability upon the Commonwealth or a state agency thereof.

HB 736, AN ACT relating to parole.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.320 is amended to read as follows:

(1) The Governor shall appoint a Parole Board consisting of seven (7) members, to be confirmed by the Senate in accordance with KRS 11.160. He shall make each appointment from a list of three (3) names given to him by the Commission on Correction and Community Service. Each member appointed to the board shall have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than four (4) board members shall be of the same political party. The board shall be attached to the Justice Cabinet for administrative purposes only; the Department of Corrections shall provide any clerical, stenographic, administrative, and expert staff assistance the board deems necessary to carry out its duties.

(2) The Governor shall name one (1) member as chairman of the board. The chairman shall be the chief administrative officer of the board and shall be responsible for all administrative, organizational, and personnel matters of the board.

(3) The members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars ($1,000) per year for his services. Their terms of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his term at which time the Governor shall name his successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term, the Governor may name a successor to serve for the remainder of the unexpired term.

(4) The organization of the board shall be determined by the chairman and a quorum of the board shall be as follows:

(a) For parole hearings at which the inmate appears before the board, three (3) members; and

(b) For all other business, four (4) members. A decision by any three (3) member panel in a parole hearing shall be final only if it is unanimous; otherwise the case must be reviewed and voted on by not less than four (4) members of the board. Parole decisions for inmates who do not appear before the board shall be reviewed and voted on by not less than four (4) members of the board.

(5) The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, he shall give the member a written copy of the charges against him and shall fix the time when he can be heard in his defense, which shall not be less than ten (10) days thereafter. Upon removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.

(6) Upon the expiration of the terms of office of the two (2) board members whose terms expire May 23, 1994, the Governor shall appoint two (2) members to serve terms which will expire June 30, 1995. Thereafter, appointments to these two terms shall be for four (4) years and shall be filled as provided for in subsection (3) of this section. The Governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.

(7) The Governor shall appoint up to ten (10) part-time Parole Board members, to be confirmed by the Senate in accordance with KRS 11.160. The appointment process for these members shall be the same as set forth in subsection (1) of this section, and these members shall possess the same qualifications of a full-time Parole Board member with the additional requirement that they shall have previously served as a full-time Parole Board member. These members may participate in considering the grant or revocation of parole at the request of the chairman. No more than one (1) part-time Parole Board members shall serve on any panel of the board as set forth in subsection

(4) of this section. The part-time Parole Board member called upon to serve shall be paid at a per diem rate equal to the per diem rate for the salary of a newly appointed full-time member and shall receive necessary travel expenses. The part-time Parole Board member shall serve for a period of four (4) years from the date of appointment and may be reappointed.

Section 2. KRS 439.340 is amended to read as follows:

(1) The board may release on parole persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission to an adult state penal or correctional institution or county jail if he is a sentenced felon, and at such intervals thereafter as it may determine, the Department of Corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. The information shall include his criminal record, his conduct, employment, and attitude in prison, and the reports of physical and mental examinations that have been made. The Department of Corrections shall furnish the circumstances of his offense and his previous social history to the institution and the board. The Department of Corrections shall prepare a report on any information it obtains. It shall be the duty of the Department of Corrections to supplement this report with any material the board may request and submit the report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it for interview and hearing. The board in its discretion may hold interviews and hearings for prisoners convicted of Class D felonies. The board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt administrative regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with other factors involved that would relate to the inmate's needs and the safety of the public.

(4) The board shall insure that sentenced felons confined in county jails are considered for parole within thirty (30) days of their parole eligibility date and the Department of Corrections shall provide the necessary assistance and information to the board in order for it to conduct timely parole reviews.

(5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he is imprisoned, and all identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail to his business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail to the Commonwealth's attorney who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

(6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all comments prior to making its parole decision, if they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor may attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, if they have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of their intention to attend the hearing. The board shall receive and consider all comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make

their presentations outside of the presence of the prisoner.

(7) ***Victims of Class D felonies may submit comments in person or in writing to the board upon all issues relating to the parole of a prisoner.***

(8) Any hearing provided for in subsections (5)***,***[~~ and~~] (6)***, and (7)*** of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of hearing for reasons of personal safety, in which event the hearing shall be closed. ***The time, date, and location of closed hearings shall not be disclosed to the public.***

(9)[~~(8)~~] Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the Parole Board or any of its members, agents, or employees.

(10)[~~(9)~~] The unintentional failure by the Parole Board, sheriff, chief of police, or any of its members, agents, or employees or by a Commonwealth's attorney or any of his agents or employees to comply with any of the provisions of subsections (5), (6), and ***(8)***[~~(7)~~] of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner, or any other person.

(11)[~~(10)~~] No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he has successfully completed the Sexual Offender Treatment Program.

(12)[~~(11)~~] Any prisoner who is granted parole after completion of the Sexual Offender Treatment Program shall be required, as a condition of his parole, to participate in regular treatment in a mental health program approved or operated by the Department of Corrections.

(13)[~~(12)~~] When an order for parole is issued, it shall recite the conditions thereof.

HB 753, AN ACT relating to judicial retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.405 is amended to read as follows:

(1) As of July 1, 1982, the board of trustees of the Kentucky Judicial Form Retirement System shall recompute the monthly benefits of persons then receiving benefits under the Judicial Retirement Plan, by using the same service credit rate and the same number of years of service that were used in computing the benefits then being received, but substituting, in lieu of the "final compensation" that was used in the computation of the benefit then being received, an amount equal to fifty-five percent (55%) of the final compensation of the office in which the credit was earned, for a person retiring as of June 30, 1982.

(2) As of July 1, 1983, and as of July 1 of each year thereafter, the board of trustees of the Kentucky Judicial Form Retirement System shall recompute the monthly benefits of persons then receiving benefits under the Judicial Retirement Plan, by using the following formula: two and three-fourths percent (2.75%) times fifty-five percent (55%) of the final compensation of the office in which the retirement credit was earned for a person retiring as of the recomputation date, times the number of years of service credit (not to exceed thirty-six (36) years).

(3) In making the recomputations provided for in subsections (1) and (2) of this section, the same reduction factor, in case of an actuarially reduced benefit or a surviving spouse's benefit, shall be used as was used in determining the benefit then being received. If the benefit as recomputed in accordance with subsection (1) or (2) of this section is higher than the benefit then being received, the recomputed benefit shall thereafter be paid monthly, commencing as of the date specified for the recomputation, subject to future adjustment at ensuing annual recomputations in accordance with subsection (2) of this section. For the purposes of this section, the following office equivalents shall be used: Judge of former Court of Appeals - Justice of Supreme Court; any position other than judge or justice that was covered by the Judicial Retirement System - Judge of the present Court of Appeals.

(4) Effective July 1, 1998, and on July 1 of each year thereafter, a recipient of a monthly pension benefit from the Kentucky Judicial Retirement Plan shall have his/her benefit increased by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the State's appropriation to the Judicial Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on July 1, 1998, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 21.480. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.

The Committee Substitute to **HB 753** is as follows:

AN ACT relating to judicial retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.405 is amended to read as follows:

(1) As of July 1, 1982, the board of trustees of the Kentucky Judicial Form Retirement System shall recompute the monthly benefits of persons then receiving benefits under the Judicial Retirement Plan, by using the same service credit rate and the same number of years of service that were used in computing the benefits then being received, but substituting, in lieu of the "final compensation" that was used in the computation of the benefit then being received, an amount equal to fifty-five percent (55%) of the final compensation of the office in which the credit was earned, for a person retiring as of June 30, 1982.

(2) As of July 1, 1983, and as of July 1 of each year thereafter, the board of trustees of the Kentucky Judicial Form Retirement System shall recompute the monthly benefits of persons then receiving benefits under the Judicial Retirement Plan, by using the following formula: two and three-fourths percent (2.75%) times fifty-five percent (55%) of the final compensation of the office in which the retirement credit was earned for a person retiring as of the recomputation date, times the number of years of service credit (not to exceed thirty-six (36) years).

(3) In making the recomputations provided for in subsections (1) and (2) of this section, the same reduction factor, in case of an actuarially reduced benefit or a surviving spouse's benefit, shall be used as was used in determining the benefit then being received. If the benefit as recomputed in accordance with subsection (1) or (2) of this section is higher than the benefit then being received, the recomputed benefit shall thereafter be paid monthly, commencing as of the date specified for the recomputation, subject to future adjustment at ensuing annual recomputations in accordance with subsection (2) of this section. For the purposes of this section, the following office equivalents shall be used: Judge of former Court of Appeals - Justice of Supreme Court; any position other than judge or justice that was covered by the Judicial Retirement System - Judge of the present Court of Appeals.

(4) Effective August 1, 1998, and on July 1 of each year thereafter, a recipient of a monthly pension benefit from the Kentucky Judicial Retirement Plan shall have his/her benefit increased by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the State's appropriation to the Judicial Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1998, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 21.480. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.

HB 754, AN ACT relating to the judiciary.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21A.110 is amended to read as follows:

Any retired justice or judge assigned to active judicial service pursuant to Section 110(5)(b) of the Constitution shall be compensated for his service as follows:

(1) The salary for each day which the justice or judge serves shall be the difference, if any, between 1/250 of annual retirement benefits and 1/250 of the annual salary for the judicial office in which he performs the judicial duties. However, ***no special judge shall receive compensation that is less than one hundred fifty dollars ($150) per day.*** This section shall not be construed to require a reduction in retirement benefits if the applicable salary would be less than the retirement benefits.

(2) Necessary expenses incidental to the performance of the duties of such assignment shall be paid out of the State Treasury upon approval by the Chief Justice or his designee.

HB 791, AN ACT relating to judicial retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.400 is amended to read as follows:

(1) A member who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962, creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one

hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 to 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one-hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a Circuit Judge, compensation received as special commissioner of the former Court of Appeals. If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.

(2) ***A member who retires with twenty (20) or more years of service in the retirement system, other than service credited to the member's account under KRS 21.370, or a member who retires with nineteen (19) years of service in the retirement system, and one (1) year of service credited to the member's account under KRS 21.370(4), which service shall include service as an employee of the federal government purchased in the plan under KRS 21.370(4), shall, contrary provisions of this section notwithstanding, commencing at age sixty five (65), receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to five percent (5%) of his final compensation multiplied by the number of years of his service.***

(3) A member who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed and payable in accordance with the provisions of subsection (1) of this section, on the basis of the number of years of his actual service.

(4)[~~(3)~~] *Except when a member's benefit is calculated under subsection (2) of this section,* in lieu of the right provided for in subsection *(3)*[~~(2)~~] of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection *(3)*[~~(2)~~] of this section when he reached his normal retirement age, reduced at the rate of five percent (5%) for each year by which his actual age at the time the election is made is lower than the normal retirement age.

(5)[~~(4)~~] *Except when a member's benefit is calculated under subsection (2) of this section,* a member who retires before his normal retirement date when his benefit is based on twenty-seven (27) years or more of service in the Judicial Retirement Plan, or if his judicial service credit, when combined with service he has in, or for which he is receiving benefits from, the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or the Teachers' Retirement System, is equal to twenty-seven (27) years, shall be vested with the right to receive a service retirement allowance computed and payable in accordance with the provisions of subsection (1) of this section on the basis of the number of years of his actual service.

(6)[~~(5)~~] In lieu of the right provided for in subsection *(3)*[~~(2)~~] of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election, a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection *(3)*[~~(2)~~] of this section when he reached normal retirement age, reduced at the rate of five percent (5%) for each year by which his years of service or combined service pursuant to subsection *(5)*[~~(4)~~] of this section are lower than twenty-seven (27).

Section 2. KRS 6.520 is amended to read as follows:

(1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement, except that in the case of a legislator who retires pursuant to KRS 21.410 or who dies in office, "final compensation" shall be two thousand two hundred ninety-one dollars sixty-six cents ($2,291.66).

(2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400*(3)*[~~(2)~~] and *(4)*[~~(3)~~] in the Judicial Retirement Plan for members of that plan, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.

(3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982, that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service

retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the sixty (60) months of service immediately preceding retirement.

(4) Subsections (1) and (2) of this section to the contrary notwithstanding, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement.

Section 3. KRS 21.410 is amended to read as follows:

(1) If upon examination of a member under his normal retirement age by one (1) or more qualified physicians employed by the retirement board, it is certified to the satisfaction of the board that such member is so physically or mentally disabled as to be incapacitated for further performance of duty, and that such incapacity is likely to be permanent, the member may retire for disability. A member who so retires shall be entitled to receive commencing immediately a disability retirement allowance, payable monthly during his disability, in an amount equal to one-half (1/2) of the monthly service retirement allowance he would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of actual retirement.

(2) A member need not have completed eight (8) years of service in order to be eligible for benefits under subsection (1) of this section.

(3) The retirement board shall cause a member who has been retired for disability and who is still under his normal retirement age to undergo periodic examination by one (1) or more qualified physicians employed by the board, to determine whether he continues to be incapacitated for service of the character required of a judge or commissioner. If upon any such examination it is certified to the satisfaction of the board that the member is no longer so incapacitated, or if the member refuses to submit to examination, the board shall terminate his disability retirement allowance. He shall then be entitled to such rights, if any, under subsection *(3)*[~~(2)~~] or *(4)*[~~(3)~~] of KRS 21.400 as he would have been entitled to had he voluntarily retired on the date he was retired for disability.

(4) Upon reaching his normal retirement age, a member who has been receiving a disability retirement allowance may apply for and receive, in lieu thereof, the service retirement allowance he would have been entitled to receive at normal retirement age had he voluntarily retired on the date he was retired for disability.

Section 4. KRS 21.420 is amended to read as follows:

(1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection *(4)*[~~(3)~~] of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.

(2) (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.

(b) If a member dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.

(3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection *(4)*[~~(3)~~] of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection *(3)*[~~(2)~~] of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.

(4) A member, or a retiree who has not commenced drawing retirement benefits pursuant to KRS 21.400, who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated contributions of the member. Absent a designation by the member or retiree, the accumulated contributions shall be paid to the member's estate.

(5) A member who commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the personal

contributions of the member, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member. Any offset of contributions by reason of benefits received shall be deducted from the contributions first made to the system. Absent a designation by the member, the accumulated contributions shall be paid to the member's estate.

(6) A member may designate a beneficiary who shall receive the balance of the accumulated contributions of the member, in the event survivor's benefits are being paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior to receiving benefits equal to the member's contributions. In this event, the provisions of subsection (5) of this section shall apply as to offset and payment.

(7) A member may, before retirement, elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member. If the member dies after retirement, the option chosen shall prevail over the provisions of subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:

(a) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse.

(b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

Floor Amendments (Continued)

Floor Amendment No. 18 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 2, line 20, after "***(a)***" to delete "***At least twenty-four (24) hours***"; and

On page 3, line 5, after the "***(b)***" to delete "***At least twenty-four (24) hours***"; and

On page 3, line 20, after the "***(c)***" to delete "***At least twenty-four (24) hours***".

Motions, Petitions and Communications (Continued)

Representative Callahan moved the adoption of the following **Legislative Citation No. 133**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends Marian E. Sizemore for the exceptional generosity of time and effort that she has demonstrated by volunteering to teach children between the ages of kindergarten and third grade how to correctly use 911 services. The immense value of these lessons was poignantly illustrated when five-year-old Rachel Seifert of Fort Thomas called 911 when her mother, Janet, fell unconscious in their family home. As a result of the training in 911 usage that she had received as both a kindergartner and preschooler, this extraordinary young lady remained calm and clearly answered the questions of the dispatcher, which enabled police and paramedics to reach her quickly. Marian E. Sizemore has undertaken a worthy endeavor in an attempt to provide the children and young people of Fort Thomas, Kentucky, knowledge which could one day save the life of a friend or family member. The members of this august body are indeed pleased to join with Representative Jim Callahan in applauding the efforts of this distinguished Kentucky citizen and in extending to her best wishes for success as she embarks upon this worthy venture. **Legislative Citation No. 133** was adopted without objection.

Representative Curd moved the adoption of the following **Legislative Citation No. 129**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors the Murray State University Basketball Team for their consistent display of talent and athletic performance that has enabled this formidable team to win its tenth Ohio Valley Conference title in the last eleven years. Therefore, it should be noted that this extraordinary group of young men who perform like a well-oiled machine also have won seven Ohio Valley Conference Tournament titles in the last eleven years; have broken the OVC record for most league wins in a season; are ranked eighth nationally in field goal percentages, sixth in scoring margin, seventh in scoring and seventh in rebounding; and are the first Kentucky team to qualify for the NCAA Conference. It is with great pleasure that the members of the Kentucky House of Representatives join Representatives Freed Curd and Brent Yonts in recognizing the phenomenal athletic skills of the Racers, their veritable team spirit and their rare heroes' hearts. **Legislative Citation No. 129** was adopted without objection.

Representative Bruce moved to suspend the rules to act upon a Resolution. Agreed. Representative Bruce moved the adoption of the following **HR 127**:

HR 127, A RESOLUTION commending Governor Patton and former Governor Collins for successfully attracting a

United Parcel Service (UPS) mega-hub expansion to Louisville.

WHEREAS, a thriving economy is necessary for the well-being and prosperity of communities across the entire Commonwealth; and

WHEREAS, the creation of well-paying jobs is fundamental to a strong economy; and

WHEREAS, UPS has played a major role in Kentucky's economy by providing well-paying jobs since 1964; and

WHEREAS, Governor Patton and former Governor Collins successfully attracted a UPS mega-hub expansion to the city of Louisville; and

WHEREAS, the UPS mega-hub expansion will bring an estimated 14,000 new jobs to the local economy with an annual payroll of over $477 million by the year 2005; and

WHEREAS, the UPS mega-hub will lead to a unique partnership between UPS and the University of Louisville, Jefferson Community College, and Kentucky Tech to meet the UPS need for workers;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Governor Patton and former Governor Collins are commended for this enormous contribution to the economy of the Commonwealth of Kentucky.

Section 2. The Clerk of the House is hereby directed to transmit copies of this Resolution to Governor Paul Patton, the Governor's Office, State Capitol, Frankfort, Kentucky 40601 and former Governor Martha Layne Collins, the International Business Center, Gatton College of Business and Economics, University of Kentucky, Lexington, Kentucky 40506.

There being no objection **HR 127** was adopted.

Representative Yonts moved the adoption of the following **Legislative Citation No. 130**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Head Coach Mark Gottfried for exceptional athletic guidance and professional commitment offered unselfishly to the members of the 1997-1998 Murray State University Men's Basketball team; and in addition said recipient was named "Coach of the Year" for the Ohio Valley Conference having won 35 of the Racers last 39 games and possessing a 49-13 record for the last two seasons. For inasmuch as dedication to the sterling qualities of competitive spirit, championship skills and academic excellence has coalesced in victorious recognition for the talented Murray State Racers Basketball Team, resulting in exceptional recognition by basketball colleagues. Therefore this prestigious body commends the exemplary training abilities of the Murray State University Basketball Coach and applauds the team's phenomenal performance this season. **Legislative Citation No. 130** was adopted without objection.

Representative Murgatroyd moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Murgatroyd moved that he be recorded as voting "yea" on **HB 155**. Agreed.

Representative Napier moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Napier moved that his vote be changed from "nay" to "yea" on **HB 471**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crall moved that he be recorded as voting "yea" on Floor Amendment No. 22 to **HB 74**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Vincent moved that he be recorded as voting "yea" on **HB 454**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative R. Adams moved that he be recorded as voting "yea" on **HB 454**. Agreed.

Representative Allen moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Allen moved that his vote be changed from "yea" to "nay" on **HB 74**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 36**, Representative McKee; **HB 122**, Representative Crenshaw; **HB 371**, Representative Richards; **HB 509**, Representative Stine; **HB 635**, Representative Vincent; **HB 716**, Representative Murgatroyd; **HB 762**, Representative Rader; **HB 866, HB 867, HB 868**, Representative Crimm; **HB 904**, Representative D. D. Butler; **HB 907**, Representative Walton; **HB 913**, Representative Simpson.

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 627**, by Representative Walton:

On page 1, line 3, after "***14,***", by inserting "***and***", and after "***15***", by deleting "***, and 17***"; and

On page 4, line 10, after "***14,***", by deleting the "***,***" and inserting "***and***", and after "***15***", by deleting "***, and 17***"; and

On page 4, line 20, after "***14,***", by deleting the "***,***" and inserting "***and***", and after "***15***", by deleting "***, and 17***"; and

On page 7, line 5, after "***15,***", by inserting "***and***", and after "***16***", by deleting "***, and 17***"; and

On page 8, line 21, after "***14,***", by deleting the "***,***" and inserting "***and***", and after "***15***", by deleting "***, and 17***"; and

On page 28, line 8, insert "***and***" after "plan,", and on line 9, insert "***.***" after "fund"; and

On page 28, line 9, after "have", by deleting the new language, and brackets from "~~one (1) or more~~"; and after "fund", by placing a "[" and striking through all language through the period "." on line 11 and removing the "[" following the period ".";

On page 29, line 2, after "***least***", by deleting "***a distinguished educator,***";

On page 29, beginning on line 25, after "***team***", by deleting "***or the assisting distinguished educator assigned to the school***";

On page 30, line 27, by deleting the "]" after "~~(d)~~" and the "[" on page 31, line 2, after the "." and striking through the intervening language; and

On page 31, line 3, after "The" by placing "[" before the word "Kentucky" and a "]" after "educator" on line 4, and striking through the intervening language, and by deleting "***or the***" on line 4 after "educator"; and

On page 31, line 5, after "***team***", by deleting "***as appropriate***"; and

On page 32, beginning on line 17, after "***member.***", by deleting all new language through "***capacity.***" on line 19; and

On page 33, line 8, delete "***classified as "in review"***"; and place a bracket before "A"; and delete the "[" before "~~in~~", and strike through the intervening language; and

On page 33, lines 11, 12, and 13, by deleting all new language and brackets; and

On page 33, line 10, after "~~biennium~~", by deleting the "]"; and the "[" on line 13 before the comma "~~,~~"; and striking through the intervening language; and

Beginning on page 35, line 24 through line 11 on page 38, by deleting Section 17 in its entirety and renumbering the subsequent Sections; and

On page 39, line 23, after "***team***", by deleting "***or the***" and by removing the "]" after "~~a~~", and placing a "]" after "educator" on line 24 after "distinguished", and striking through the intervening language; and

On page 40, line 24, after "***team***", by deleting "***or***" and by placing a "[" before "a", and placing a "]" after "educator" on line 25 after "distinguished", and striking through the intervening language; and

On page 43, between lines 15 and 16 by inserting the following:

"Section 20. The following KRS section is repealed:

158.782 "Kentucky Distinguished Educator" -- Purposes -- Program criteria -- Monetary awards -- Compensation -- Assignments." and renumbering the subsequent Sections; and

On page 43, line 16, after "15," by inserting "and"; and after "16", by deleting ", and"; and

On page 43, line 17, before "of this", by deleting "17"; and

On page 44, beginning after "(3)", by deleting all language through the "." on line 9, before the word "No" on line 9; and

On page 44, between lines 12 and 13, by inserting the following:

"Section 22. The Kentucky Department of Education shall use any unexpended funds appropriated for the distinguished educator program to provide funding for local districts offering full-day kindergarten programs." and by renumbering the subsequent section.

Floor Amendment No. 5 to the Committee Substitute to **HB 627**, by Representative Walton:

On page 1, line 3, after "***14,***", by inserting "***and***", and after "***15***", by deleting "***, and 17***"; and

On page 4, line 10, after "***14,***", by deleting the "***,***" and inserting "***and***", and after "***15***", by deleting "***, and 17***"; and

On page 4, line 20, after "***14,***", by deleting the "***,***" and inserting "***and***", and after "***15***", by deleting "***, and 17***"; and

On page 7, line 5, after "***15,***", by inserting "***and***", and after "***16***", by deleting "***, and 17***"; and

On page 8, line 21, after "***14,***", by deleting the "***,***" and inserting "***and***", and after "***15***", by deleting "***, and 17***"; and

On page 28, line 8, insert "***and***" after "plan,", and on line 9, insert "***.***" after "fund"; and

On page 28, line 9, after "have", by deleting the new language, and brackets from "~~one (1) or more~~"; and after "fund", by placing a "[" and striking through all language through the period "." on line 11 and removing the "[" following the period ".";

On page 29, line 2, after "***least***", by deleting "***a distinguished educator,***";

On page 29, beginning on line 25, after "***team***", by deleting "***or the assisting distinguished educator assigned to the school***";

On page 30, line 27, by deleting the "]" after "~~(d)~~" and the "[" on page 31, line 2, after the "." and striking through the intervening language; and

On page 31, line 3, after "The" by placing "[" before the word "Kentucky" and a "]" after "educator" on line 4, and striking through the intervening language, and by deleting "***or the***" on line 4 after "educator"; and

On page 31, line 5, after "***team***", by deleting "***as appropriate***"; and

On page 32, beginning on line 17, after "***member.***", by deleting all new language through "***capacity.***" on line 19; and

On page 33, line 8, delete "***classified as "in review"***"; and place a bracket before "A"; and delete the "[" before "~~in~~", and strike through the intervening language; and

On page 33, lines 11, 12, and 13, by deleting all new language and brackets; and

On page 33, line 10, after "~~biennium~~", by deleting the "]"; and the "[" on line 13 before the comma "~~,~~"; and striking through the intervening language; and

Beginning on page 35, line 24 through line 11 on page 38, by deleting Section 17 in its entirety and renumbering the subsequent Sections; and

On page 39, line 23, after "***team***", by deleting "***or the***" and by removing the "]" after "a", and placing a "]" after "educator" on line 24 after "distinguished", and striking through the intervening language; and

On page 40, line 24, after "***team***", by deleting "***or***" and by placing a "[" before "a", and placing a "]" after "educator" on line 25 after "distinguished", and striking through the intervening language; and

On page 43, between lines 15 and 16 by inserting the following:

"Section 20. The following KRS section is repealed:

158.782 "Kentucky Distinguished Educator" -- Purposes -- Program criteria -- Monetary awards -- Compensation -- Assignments." and renumbering the subsequent Sections; and

On page 43, line 16, after "15," by inserting "and"; and after "16", by deleting ", and"; and

On page 43, line 17, before "of this", by deleting "17"; and

On page 44, beginning after "(3)", by deleting all language through the "." on line 9, before the word "No" on line 9.

Floor Amendment No. 6 Title to the Committee Substitute to **HB 627**, by Representative Walton:

By amending the title to read as follows:

"AN ACT relating to education, making an appropriation therefor, and declaring an emergency."

Announcements

The following meetings were announced:

Appropriations and Revenue, Room 131, upon adjournment.

Labor and Industry, 15 minutes upon adjournment.

Agriculture and Small Business, 30 minutes upon adjournment.

Budget Review Subcommittee on Corrections, 9:30 a.m., March 6, 1998.

Tourism Development and Energy, Room 111, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., March 6, 1998.

On the roll call the vote was **Yeas 71**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, D. Butler, D. D. Butler, Callahan, L. Clark, Cox, Crenshaw, Crimm, Damron, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Haydon, Hoffman, Hogancamp, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 6**--Cave, P. Clark, Crall, Nesler, Nunn, Stewart.

The motion to adjourn was adopted.

FRIDAY, MARCH 6, 1998

FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Calvin Hibbard, Laurel River Missionary Baptist Church, Corbin.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Burch, Deskins, Lovell, and Nesler.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 5, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 242**, **SB 332**, **SB 354**, **HB 218**, and **HB 392**. (Time: 10:05 a.m.)

Report On Enrolled Bills

HB 38, **HB 75**, **HB 104**, **HB 154**, **HB 156**, **HB 175**, **HB 284**, **HB 340**, **HB 343**, **HB 347**, **HB 348**, **HB 356**, **HB 357**, **HB 360**, **HB 365**, **HB 412**, and **HB 422** delivered to the Senate and signed by the President. Delivered to the Governor on March 5, 1998 at 9:46 a.m.

Floor Amendment

Floor Amendment No. 6 to the House Committee Substitute to **SB 63**, by Representative Brown:

On page 1, By deleting lines 12 through 21 and inserting the following new paragraph in lieu thereof:

"*(a) "Autism" means a developmental disability, with onset before age three (3), the essential features of which are:*

- *1. The presence of markedly abnormal or impaired development in reciprocal social interaction which is gross and sustained;*
- *2. A marked and sustained impairment in communication which is sustained and affects both verbal and nonverbal skills; and*
- *3. A markedly restricted, repetitive repertoire of activity and interests and stereotyped patterns of behavior, interests, and activities.*

This term does not include persons with characteristics of an emotional-behavioral disability as defined in KRS 157.200 and is not better accounted for by Rett's Disorder or Childhood Disintegrative Disorder; and";

And on page 1, Between lines 22 and 23 by inserting the following:

"*(4) A diagnosis of autism shall be made when a child exhibits a total of six (6) or more items from paragraph (a), (b), and (c) of this subsection, with at least two (2) items from (a) and one (1) item each from (b) and (c):*

(a) Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

- *1. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;*
- *2. Failure to develop peer relationships appropriate to developmental level;*
- *3. A lack of spontaneous seeking to share enjoyment, interests, or achievements with other people such as by a lack of showing, bringing, or pointing out objects of interest; or*
- *4. A lack of social or emotional reciprocity;*

(b) Qualitative impairments in communication as manifested by at least one (1) of the following:

- *1. Delay in, or total lack of, the development of spoken language, not accompanied by an attempt to* *compensate through alternative modes of communication such as gesture or mime;*

2. In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;

3. Stereotyped and repetitive use of language or idiosyncratic language; or

4. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level; and

(c) Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

1. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

2. Apparently inflexible adherence to specific nonfunctional routines or rituals;

3. Stereotyped and repetitive motor mannerisms, such as hand or finger flapping or twisting, or complex whole-body movements; or

4. Persistent preoccupation with parts of objects.";

And on page 2, By deleting lines 8 through 17 and inserting the following in lieu thereof:

"*(a) "Autism" means a developmental disability, with onset before age three (3), the essential features of which are:*

1. The presence of markedly abnormal or impaired development in reciprocal social interaction which is gross and sustained;

2. A marked and sustained impairment in communication which is sustained and affects both verbal and nonverbal skills; and

3. A markedly restricted, repetitive repertoire of activity and interests and stereotyped patterns of behavior, interests, and activities.

This term does not include persons with characteristics of an emotional-behavioral disability as defined in KRS 157.200 and is not better accounted for by Rett's Disorder or Childhood Disintegrative Disorder; and";

And on page 2, Between lines 18 and 19 by inserting the following:

"*(4) A diagnosis of autism shall be made when a child exhibits a total of six (6) or more items from paragraph (a), (b), and (c) of this subsection, with at least two (2) items from (a) and one (1) item each from (b) and (c):*

(a) Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

1. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

2. Failure to develop peer relationships appropriate to developmental level;

3. A lack of spontaneous seeking to share enjoyment, interests, or achievements with other people such as by a lack of showing, bringing, or pointing out objects of interest; or

4. A lack of social or emotional reciprocity;

(b) Qualitative impairments in communication as manifested by at least one (1) of the following:

1. Delay in, or total lack of, the development of spoken language, not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime;

2. In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;

3. Stereotyped and repetitive use of language or idiosyncratic language; or

4. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level; and

(c) Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

1. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

2. Apparently inflexible adherence to specific nonfunctional routines or rituals;

3. Stereotyped and repetitive motor mannerisms, such as hand or finger flapping or twisting, or complex whole-body movements; or

4. Persistent preoccupation with parts of objects.";

On page 3, By deleting lines 3 through 12 and inserting the following new paragraph in lieu thereof:

"*(a) "Autism" means a developmental disability, with onset before age three (3), the essential features of which are:*

1. The presence of markedly abnormal or impaired development in reciprocal social interaction which is gross and sustained;

2. A marked and sustained impairment in communication which is sustained and affects both verbal and nonverbal skills; and

3. A markedly restricted, repetitive repertoire of activity and interests and stereotyped patterns of behavior, interests, and activities.

This term does not include persons with characteristics of an emotional-behavioral disability as defined in KRS 157.200 and is not better accounted for by Rett's Disorder or Childhood Disintegrative Disorder; and";

On page 3, Between lines 13 and 14, By inserting the following:

"*(4) A diagnosis of autism shall be made when a child exhibits a total of six (6) or more items from paragraph (a), (b), and (c) of this subsection, with at least two (2) items from (a) and one (1) item each from (b) and (c):*

(a) Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

1. Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;

2. Failure to develop peer relationships appropriate to developmental level;

3. A lack of spontaneous seeking to share enjoyment, interests, or achievements with other people such as by a lack of showing, bringing, or pointing out objects of interest; or

4. A lack of social or emotional reciprocity;

(b) Qualitative impairments in communication as manifested by at least one (1) of the following:

1. Delay in, or total lack of, the development of spoken language, not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime;

2. In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;

3. Stereotyped and repetitive use of language or idiosyncratic language; or

4. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level; and

(c) Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

1. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

2. Apparently inflexible adherence to specific nonfunctional routines or rituals;

3. Stereotyped and repetitive motor mannerisms, such as hand or finger flapping or twisting, or complex whole-body movements; or

4. Persistent preoccupation with parts of objects.";

And on page 3, By deleting lines 26 and 27 and inserting in lieu thereof the following:

"*(a) "Autism" means a developmental disability, with onset before age three (3), the essential features of which are:*

1. The presence of markedly abnormal or impaired development in reciprocal social interaction which is gross and sustained;

2. A marked and sustained impairment in communication which is sustained and affects both verbal and nonverbal skills; and

3. A markedly restricted, repetitive repertoire of activity and interests and stereotyped patterns of behavior, interests, and activities.

This term does not include persons with characteristics of an emotional-behavioral disability as defined in KRS 157.200 and is not better accounted for by Rett's Disorder or Childhood Disintegrative Disorder; and";

And on page 4, By deleting lines 1 through 8 in their entirety;

And on page 4, Between lines 9 and 10, By inserting the following:

"*(4) A diagnosis of autism shall be made when a child exhibits a total of six (6) or more items from paragraph (a), (b), and (c) of this subsection, with at least two (2) items from (a) and one (1) item each from (b) and (c):*

(a) Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

1. *Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;*
2. *Failure to develop peer relationships appropriate to developmental level;*
3. *A lack of spontaneous seeking to share enjoyment, interests, or achievements with other people such as by a lack of showing, bringing, or pointing out objects of interest; or*
4. *A lack of social or emotional reciprocity;*

(b) Qualitative impairments in communication as manifested by at least one (1) of the following:

1. *Delay in, or total lack of, the development of spoken language, not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime;*
2. *In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;*
3. *Stereotyped and repetitive use of language or idiosyncratic language; or*
4. *Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level; and*

(c) Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

1. *Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;*
2. *Apparently inflexible adherence to specific nonfunctional routines or rituals;*
3. *Stereotyped and repetitive motor mannerisms, such as hand or finger flapping or twisting, or complex whole-body movements; or*
4. *Persistent preoccupation with parts of objects.*";

And on page 4, By deleting lines 20 through 27 in their entirety and inserting in lieu thereof the following:

"*(a) "Autism" means a developmental disability, with onset before age three (3), the essential features of which are:*

1. *The presence of markedly abnormal or impaired development in reciprocal social interaction which is gross and sustained;*
2. *A marked and sustained impairment in communication which is sustained and affects both verbal and nonverbal skills; and*
3. *A markedly restricted, repetitive repertoire of activity and interests and stereotyped patterns of behavior, interests, and activities.*

This term does not include persons with characteristics of an emotional-behavioral disability as defined in KRS 157.200 and is not better accounted for by Rett's Disorder or Childhood Disintegrative Disorder; and";

And on page 5, By deleting lines 1 and 2 in their entirety;

And on page 5, By inserting after line 3 the following:

"*(4) A diagnosis of autism shall be made when a child exhibits a total of six (6) or more items from paragraph (a), (b), and (c) of this subsection, with at least two (2) items from (a) and one (1) item each from (b) and (c):*

(a) Qualitative impairment in social interaction, as manifested by at least two (2) of the following:

1. *Marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction;*
2. *Failure to develop peer relationships appropriate to developmental level;*
3. *A lack of spontaneous seeking to share enjoyment, interests, or achievements with other people such as by a lack of showing, bringing, or pointing out objects of interest; or*
4. *A lack of social or emotional reciprocity;*

(b) Qualitative impairments in communication as manifested by at least one (1) of the following:

1. *Delay in, or total lack of, the development of spoken language, not accompanied by an attempt to*

compensate through alternative modes of communication such as gesture or mime;

2. In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others;

3. Stereotyped and repetitive use of language or idiosyncratic language; or

4. Lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level; and

(c) Restricted repetitive and stereotyped patterns of behavior, interests, and activities, as manifested by at least one (1) of the following:

1. Encompassing preoccupation with one (1) or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus;

2. Apparently inflexible adherence to specific nonfunctional routines or rituals;

3. Stereotyped and repetitive motor mannerisms, such as hand or finger flapping or twisting, or complex whole-body movements; or

4. Persistent preoccupation with parts of objects.".

Representative Johns moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Johns moved the adoption of the following **Legislative Citation No. 131**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and welcomes Phyllis Hill Slater President, National Association of Women Business Owners on the occasion of her visit to the General Assembly while in Kentucky serving as the keynote speaker at the annual Women Business Owner of the Year Awards Luncheon. The owner of Hill Slater, Inc., a company providing architectural and engineering systems to private, state and federal agencies throughout New York City and State, she is recognized as a dedicated community advocate and distinguished NAWBO activist. Serving on many boards, testifying before the U.S. House Small Business Committee and acting as a delegate to the White House Conference on Small Business, she has been recognized by Presidents Carter, Reagan, Bush and Clinton for outstanding contributions to the business community. As chair and co-founder of Women Business Owners Corporation and chair and founder of the New York State Black Women Enterprises, she continues to provide extraordinary leadership and conviction to the issues surrounding women-owned business enterprises. The esteemed members of the House of Representatives of the Commonwealth of Kentucky are delighted to join Representative Susan Johns in applauding the tremendous achievements of Phyllis Hill Slater and in extending to her our warmest welcome. **Legislative Citation No. 131** was adopted without objection.

Floor Amendments (Continued)

Floor Amendment No. 7 to the Committee Substitute to **HB 627**, by Representative Yonts:

On page 1, line 6, after "*(b)*", by deleting "*and (c)*"; and

On page 1, line 9, after "*(2)*", by changing "*(e)*"to "*(d)*" ; and

On page 12, lines 24 and 25, by deleting "*, including strategies to integrate writing portfolio entry development with content instruction*"; and

On page 22, line 17 after "*(c)*" by deleting all new language through "*(d)*" on line 24 before "*Performance*"; and

On page 22, line 27, by changing "*(e)*" to "*(d)*".

Floor Amendment No. 8 to the Committee Substitute to **HB 627**, by Representative Yonts:

On page 26, by deleting all new language on lines 13 through 17;

On page 26, line 12, after the first "the", by moving the "[" to after the word "~~school~~" and removing the strikethroughs from "~~school~~", and inserting after "school" the phrase "*to be used for school purposes*", and by deleting the "]" after "~~the~~", and by moving the bracket "]" after "~~subsection~~" on line 19 to follow the word "reward" on line 20, and striking through the intervening language; and

On page 27, line 10, after "~~(h)~~", by moving the "]" to follow the word "school" on line 11, and striking through the intervening language; and

On page 27, line 11, by deleting the new language; and

On page 27, line 12, by deleting "*(g)*"; and

On page 32, line 14, after "*(8%).*", by inserting "*The rewards shall be used for school purposes.*"; and

On page 32, by deleting all new language on lines 25, 26 and 27; and

On page 32, line 27, by deleting the "[" before "~~district~~" and the "]" after "~~increases~~"; and

On page 32, line 25, by placing a "[" before the word "Rewards" and a "]" after "schools." on page 33, line 2, and striking through the intervening language; and

On page 38, lines 1 to 4, by deleting all new language and brackets; and

On page 37, line 26, after "capacity.", by placing a "[", and by placing a "]" after the period "." on page 38, line 4, and striking through the intervening language.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **SB 327**

Counties and Special Districts: **SB 288, SB 320**

Education: **SB 265**

Health and Welfare: **SB 83, SB 328**

Judiciary: **SB 119**

Licensing and Occupations: **SB 261**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Licensing and Occupations: **HB 403**

Report of Committees

The Committee on Tourism Development and Energy reported **HB 612,** with Committee Substitute attached thereto, **HJR 95,** and **SCR 88** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 612, AN ACT relating to highway signage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

(1) "Brown sign" means an official highway guide sign that is erected by the Department of Highways to give directions, furnish advance notice, show distances to destinations, and indicate access to historical sites or to scenic, cultural, and recreational tourist areas or attractions and that conforms to the design standards and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD);

(2) "Historical site" means a cultural or educational site that is officially listed in the National Register of Historical Sites;

(3) "Interstate" means a limited access highway, a fully controlled access highway, and a parkway;

(4) "Supplemental guide sign" means an official highway sign that may be used in conjunction with a brown sign and lists the name of a tourist area or attraction or a historical site and the distance from an interstate to a tourist area or attraction or a historical site. A supplemental guide sign shall conform to the design standards and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD);

(5) "Tourist area or attraction" means a cultural, recreational, or entertainment facility or an area of natural phenomenon or scenic beauty that is suited for outdoor recreation and that receives a major portion of its income or visitors during the normal business season from motorists not residing in the immediate area of the tourist area or attraction. "Tourist area or attraction" does not include any of the following:

(a) Lodging facilities; or

(b) Facilities that are primarily devoted to the retail sale of goods, unless the goods are created by individuals at the tourist area or attraction or if the sale of goods is incidental to the tourist area or attraction.

SECTION 2. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) No later than October 1, 1998, the commissioner of the Department of Highways shall establish standards, procedures, and forms for the making and approval of applications for a brown sign by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for the approval of a brown sign application for a historical site or for a tourist area or attraction shall be based upon average annual attendance and distance from an interstate.

(3) In rural areas, the standards for approval shall be the lesser of:

(a) Tourist areas and attractions that have an average annual attendance of ten thousand (10,000) visitors and are located within thirty-five (35) miles of an interstate;

(b) Tourist areas and attractions that are located within zero (0) and ten (10) miles of an interstate and have an annual visitation equal to the average annual daily traffic count of the interstate at the interchange from which the tourist area or attraction is served; or

(c) Tourist areas and attractions that are located within thirty-five (35) miles of an interstate and have an annual visitation equal to or greater than the average annual daily traffic count of the interstate at the interchange from which the attraction is served.

(4) In urban areas, the standards for approval shall be the lesser of:

(a) Tourist areas and attractions that have an average annual attendance of seventy-five thousand (75,000) visitors and are located within thirty-five (35) miles of an interstate;

(b) Tourist areas and attractions that are located within zero (0) and ten (10) miles of an interstate and have an annual visitation equal to the average annual daily traffic count of the interstate at the interchange from which the tourist area or attraction is served; or

(c) Tourist areas and attractions that are located within ten (10) and fifteen (15) miles of an interstate and have an annual visitation equal to twice the average annual daily traffic count of the interstate at the interchange from which the attraction is served.

(5) Historical sites that are located in either rural or urban areas shall have an average annual attendance of five thousand (5,000) and shall be located within thirty-five (35) miles from an interstate.

(6) With the exception of MUTCD spacing and priority restrictions, the existence of other official signage shall have no bearing on whether an application for a brown sign shall be approved.

(7) The commissioner of the Department of Highways shall make a determination on whether to approve the erection of a brown sign within ninety (90) days after the receipt of an application.

SECTION 3. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) An application from a historical site or from a tourist area or attraction for the erection of a brown sign shall be made to the commissioner of the Department of Highways. The application shall include, but not be limited to:

(a) Evidence that demonstrates the average annual attendance;

(b) Evidence that the tourist area or attraction is established as a permanent business; and

(c) Evidence that the tourist area or attraction has all necessary and proper licenses, that normal business hours shall be maintained, that it is open to the traveling public, and that it provides recreational or educational opportunities.

(2) A nonrefundable application fee of one hundred dollars ($100) shall be paid to the Department of Highways.

SECTION 4. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) After approval of a brown sign application in rural areas, supplemental guide signs may be erected at a distance not to exceed thirty-five (35) miles from an interstate exit to a tourist area or attraction or a historical site where locations are available.

(2) After approval of a brown sign application in urban areas, supplemental guide signs may by used to list the tourist area or attraction or historical site and to specify the exit number from the interstate to the destination.

(3) Supplemental guide signs may be erected at any interstate interchange to any state or county road and also may be erected at any interchange between a limited access highway, fully controlled access highway, or parkway.

(4) Supplemental guide signs shall list no more than three (3) tourist areas and attractions or historical sites.

The Committee Substitute to **HB 612** is as follows:

AN ACT relating to highway signage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

(1) "Historical site" means a cultural or educational site that is officially listed in the National Register of Historical Sites;

(2) "Interstate" means a limited access highway, a fully controlled access highway, and a parkway;

(3) "Limited supplemental guide sign" means an official highway guide sign that is erected by the Department of Highways to give directions, furnish advance notice, show mileage or exit indicators, and indicate access to historical sites or to scenic, cultural, and recreational tourist areas or attractions and that conforms to the design standards and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD);

(4) "Post-interchange guide sign" means an official highway sign that may be used in conjunction with a limited supplemental guide sign and lists the name of a tourist area or attraction or an historical site and the distance from an interstate to a tourist area or attraction or an historical site. A post-interchange guide sign shall conform to the design standards and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD);

(5) "Rural area" means an area that does not have sufficient population to be designated as an urban area;

(6) "Tourist area or attraction" means a cultural, recreational, or entertainment facility or an area of natural phenomenon or scenic beauty that is suited for outdoor recreation or that receives a major portion of its income or visitors during the normal business season from motorists not residing in the immediate area of the tourist area or attraction. "Tourist area or attraction" does not include any of the following:

(a) Lodging facilities; or

(b) Facilities that are primarily devoted to the retail sale of goods, unless the goods are created by individuals at the tourist area or attraction or if the sale of goods is incidental to the tourist area or attraction;

(7) "Urban area" means an area with a population of one hundred thousand (100,000) or more designated by the United States Department of Commerce, Bureau of the Census, with boundaries to be fixed by the Transportation Cabinet and approved by the United States Department of Transportation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) No later than February 1, 1999, the commissioner of the Department of Highways shall establish standards, procedures, and forms for the making and approval of applications for a limited supplemental guide sign by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for the approval of a limited supplemental guide sign application for an historical site or for a tourist area or attraction shall be based upon average annual attendance and distance from an interstate highway interchange.

(3) At an interstate highway interchange in a rural area, the standards for approval shall be the lesser of:

(a) Tourist areas and attractions that have an average annual attendance of ten thousand (10,000) visitors and are located within fifty (50) miles of an interstate;

(b) Tourist areas and attractions that are located within fifty (50) miles of an interstate interchange and have an annual visitation equal to or greater than the average annual daily traffic count of the interstate at the interchange from which the attraction is served.

(4) At an interstate highway interchange in an urban area, the standards for approval shall be the lesser of:

(a) Tourist areas and attractions that have an average annual attendance of seventy-five thousand (75,000) visitors and are located within fifty (50) miles of an interstate interchange;

(b) Tourist areas and attractions that are located within fifty (50) miles of an interstate interchange and have an annual visitation equal to the average annual daily traffic count of the interstate at the interchange from which the attraction is served.

(5) Historical sites that are located in either rural or urban areas shall have an average annual attendance of five thousand (5,000) and shall be located within fifty (50) miles from an interstate interchange.

(6) The identification of a tourist area or attraction on a specific service sign pursuant to KRS 177.0736 shall not affect its eligibility for a limited supplemental guide sign.

(7) Upon receipt of an application, the commissioner of the Department of Highways shall within thirty (30) days provide written notification to the applicant of any hearings pertaining to the application. The commissioner of the Department of Highways shall make a determination on whether to approve the erection of a limited supplemental guide sign within ninety (90) days after the receipt of an application and shall provide written notification to the applicant of his decision.

(8) Supplemental guide signs, including but not limited to limited supplemental guide signs, erected prior to July 1, 1998, shall not be removed due to the site selection criteria contained in Sections 1 to 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) An application from an historical site or from a tourist area or attraction for the erection of a limited supplemental guide sign shall be made to the commissioner of the Department of Highways. The application shall include, but not be limited to:

(a) Evidence that demonstrates the average annual attendance;

(b) Evidence that the tourist area or attraction is established as a permanent business; and

(c) Evidence that the tourist area or attraction has all necessary and proper licenses, that normal business hours shall be maintained, that it is open to the traveling public, and that it provides recreational or educational opportunities.

(2) A nonrefundable application fee of two hundred dollars ($200) shall be paid to the Department of Highways.

(3) Upon approval of the application, the applicant shall pay a fee of one hundred dollars ($100) per year to the Department of Transportation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) Pursuant to the requirements of the MUTCD Section 1A-6, the commissioner of the Department of Highways shall apply to the Federal Highway Administration for permission to experiment with a new usage of post-interchange guide signs on all interstates in the Commonwealth of Kentucky. By no later than February 1, 1999, the commissioner of the Department of Highways shall submit a request to experiment that shall include, but not be limited to, all relevant sections of Sections 1 to 4 of this Act.

(2) After approval of a limited supplemental guide sign application in rural areas, post-interchange guide signs may be erected at a distance not to exceed thirty-five (35) miles from an interstate exit to a tourist area or attraction or an historical site where locations are available.

(3) After approval of a limited supplemental guide sign application in urban areas, post-interchange guide signs may by used to list the tourist area or attraction or historical site and to specify the exit number from the interstate to the destination. A maximum of three (3) post-interchange guide signs may be made available for signage.

(4) Post-interchange guide signs may be erected at any interstate interchange to any state or county road and also may be erected at any interchange between a limited access highway, fully controlled access highway, or parkway.

(5) Tourist areas or attractions that have received approval for limited supplemental guide signs may apply for post-interchange guide signs. Upon approval for a post-interchange guide sign, the applicant shall pay a fee of one hundred dollars ($100) per year to the Department of Transportation. In the event that the number of applications from approved tourist areas and attractions exceeds the number of available signs, the Department of Highways shall avail itself to the experience and knowledge of selected local groups in the specific type of attraction or activity being considered for signage to determine which applicant shall be approved.

(6) Not more than three (3) post-interchange guide signs to the same tourist area or attraction and facing the same direction of travel may be erected along a single route approaching the activity.

HJR 95, A JOINT RESOLUTION directing a study of electric restructuring during the 1998-2000 legislative interim, and making an appropriation therefor.

WHEREAS, electricity is a pervasive force and vital need in the current economy of Kentucky; and

WHEREAS, Kentucky enjoys among the lowest electric utility rates in the nation, benefiting not only citizen ratepayers but also allowing the state to use this as a tool in recruiting business; and

WHEREAS, restructuring the electric industry would have profound impacts upon the overall economy of Kentucky; and

WHEREAS, restructuring and deregulation have yielded tangible benefits in the airline, trucking, and telecommunications industries; and

WHEREAS, several states have begun to restructure their electric delivery systems in the hopes of lowering electric utility rates, and the United States Congress also has begun to debate the issue; and

WHEREAS, any restructuring in Kentucky must guarantee universal quality service, with adequate consumer education, and should take into account any possible impacts upon Kentucky coal as a viable generation source; and

WHEREAS, the issue of electricity restructuring is a complex one deserving of intensive study and careful, prudent recommendations;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is established the Electricity Restructuring Task Force, whose membership shall carefully study the issue of electric restructuring in Kentucky during the 1998-2000 interim and analyze its impacts upon the Commonwealth. The task force shall meet at least monthly, beginning not later than October 1, 1998, and shall report back to the Legislative Research Commission and the Governor with findings and recommendations no later than November 15, 1999.

Section 2. (1) The task force shall be comprised of the following members:

(a) Ten members from the executive branch, to be appointed by the Governor, with one member being the Attorney General or his designee; and

(b) Ten members from the General Assembly, of which three members shall be appointed by the President of the Senate, three members shall be appointed by the Speaker of the House, two members shall be appointed by the Senate Minority Floor Leader, and two members shall be appointed by the House Minority Floor Leader. All legislative branch appointments shall be approved by the Legislative Research Commission.

(2) The task force shall have three co-chairs, one appointed by the Governor, one appointed by the President of the Senate, and one appointed by the Speaker of the House. All appointments shall be made before July 31, 1998, and all legislative appointments shall be approved by the Legislative Research Commission.

Section 3. The task force may form advisory committees of no more than seven persons. These advisory committees may contain representatives of the private sector, but in all cases the membership of an advisory committee shall consist of more task force members than private sector representatives. Advisory committees may study particular areas of interest to the task force, such as universal service, consumer education, reliability, and future regulation. The sole role of an advisory committee shall be to report back to the full task force.

Section 4. Except as provided in KRS 18A.200, members of the task force, shall receive actual travel expenses while attending meetings.

Section 5. The task force may employ consultants, request and hear testimony, or take any necessary steps to ensure a fair, thorough, and reasonable study of the issue. The task force shall receive staffing assistance from the Public Service Commission and the Legislative Research Commission, and the executive directors of both agencies are directed to assist the task force in meeting its staffing needs.

Section 6. There is hereby appropriated from the general fund the sum of $150,000 to accomplish the study. Any amount remaining following the completion of the study shall revert to the general fund.

SCR 88, A CONCURRENT RESOLUTION creating a Task Force on Funding for Tourism Development.

WHEREAS, tourism creates jobs and revenue in every county in Kentucky and is the state's third largest industry, with an annual economic impact of $7.2 billion; and

WHEREAS, 144,000 Kentuckians are employed in the tourism industry, in such diversified businesses as hotels, motels, restaurants, car rental firms, groceries, antique stores, service stations, retail shops, airlines, museums, parks, and more; and

WHEREAS, tourism generates $660 million in taxes into the state treasury each year, helping to support other programs, such as education, highways and social services; and an additional $123 million in taxes is contributed to local governments through tourism each year; and

WHEREAS, Kentucky is blessed with natural and man-made attractions that appeal to citizens and visitors alike, and the potential is great for increasing the state's share of the tourism market; and

WHEREAS, tourism expenditures in Kentucky have actually decreased, in spite of this potential, by 2.3% in 1996 after adjustment for inflation, due to a combination of factors, including increased competition from other states, both in new attractions and larger advertising and promotion budgets; and

WHEREAS, advertising and promoting Kentucky for tourism directly impacts tourism spending and resultant state and local tax revenues, and Kentucky's budgeted advertising dollars have not kept pace with surrounding states, and Kentucky is unable to adequately promote the state as a desirable tourism destination; and

WHEREAS, the Kentucky Tourism master Plan for Strategic Development, adopted in 1995, calls for research and study into tourism funding approaches, including an analysis of methods used by other states,

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Legislative Research Commission is directed to appoint a Task Force on Tourism Funding to study for the Commonwealth, the long-term funding needs and options for tourism in the 21st Century.

Section 2. The task force shall be composed of not more than 17 members and shall include four (4) members of the Kentucky House of Representatives, two (2) members of the Kentucky Senate, a representative of the Kentucky Tourism

Development Cabinet, a representative of the Department of Travel, a representative of the Department of Parks, a representative of the Kentucky Revenue Cabinet, a representative of the Governor's Office of Policy and Management, a representative of the Kentucky Tourism Council, a representative of the Kentucky Association of Convention & Visitors Bureaus, a representative of the Kentucky Hotel Motel Association, a representative of the Kentucky Restaurant Association, a representative from the Department of Parks, and two (2) additional at-large members appointed by the Legislative Research Commission from a list of tourism representatives as may be identified by the Tourism Development Cabinet and the Kentucky Tourism Council. Co-chairs, one senator and one representative, shall be appointed by the Legislative Research Commission and shall be selected from the legislative members of the task force.

Section 3. The findings of the task force shall be presented to the Legislative Research Commission no later than October 1, 1999. Proposed legislation may be submitted to the 2000 Regular Session of the Kentucky General Assembly.

Section 4. Staff services shall be utilized in completing this study are estimated to cost $30,000. These staff services shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee on Appropriations and Revenue reported **HB 217**, with Committee Amendment attached thereto, **HB 249**, **HB 444**, with Committee Amendments attached thereto, **HB 449**, with Committee Substitute and Committee Amendment attached thereto, **HB 544**, with Committee Substitutes attached thereto, and **HB 617**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to **HB 217** is as follows:

On page 1, line 11, by deleting "***seven hundred dollars ($700)***" and inserting in lieu thereof "***five hundred dollars ($500)***".

The Committee Amendment No. 1 to **HB 444** is as follows:

On page 1, line 4, before "***All***", by inserting "***Beginning on July 1, 2000,***"; and

On page 1, after line 19 but before line 20, by inserting the following new sections:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

(1) Subject to the provisions of subsection (2) of this section, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a credit against the Kentucky sales and use tax paid on aircraft fuel, including jet fuel, purchased after June 30, 2000, as determined under subsection (2) of this section.

(2) For fiscal years beginning after June 31, 2000, certificated air carriers shall pay the first one million dollars ($1,000,000) in Kentucky sales and use tax due that is applicable to the purchase of aircraft fuel, including jet fuel. The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to the purchase of aircraft fuel, including jet fuel, purchased by the certificated air carrier during each fiscal year beginning after June 31, 2000, in excess of one million dollars ($1,000,000).

(3) Each certificated air carrier purchasing aircraft fuel, including jet fuel, on which Kentucky sales and use tax for the fiscal year is reasonably expected to exceed one million dollars ($1,000,000) shall report and pay directly to the Revenue Cabinet the tax applicable to the purchase of aircraft fuel, including jet fuel, purchased for storage use or other consumption during the fiscal year.

(4) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the Revenue Cabinet on or before October 15 of the fiscal year following the fiscal year for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

Section 3. KRS 144.137 is amended to read as follows:

The sales and use tax aviation fuel tax credit reconciliation report and the general tax credit reconciliation report required to be filed by qualifying certificated air carriers pursuant to ***Section 2 of this Act,*** KRS 144.120 and 144.125 shall be submitted to the Revenue Cabinet in a form and contain information and documentation as the cabinet may reasonably require to verify the carrier's computation of the applicable tax credit and the use of the credit against the taxes levied by KRS Chapter 139.

Section 4. Effective July 1, 2000, the following KRS section is repealed:

144.120 Sales and use tax credit -- Qualifications -- Amount -- Reporting requirements.

Section 5. This Act is effective for tax periods beginning on or after July 1, 2000."; and

On page 1, by deleting lines 20 through 22 in their entirety.

The Committee Amendment No. 2 Title to **HB 444** is as follows:

By amending the title to read "An Act relating to aviation."

The Committee Amendment No. 1 to the Committee Substitute to **HB 449** is as follows:

On page 14, line 6, after "*system*" by adding "*, within existing appropriation amounts,*"; and

On page 14, line 10 by deleting "*also*" and inserting in lieu thereof "*, to the extent possible within existing appropriation amounts,*".

The Committee Substitute No. 2 to **HB 544** is as follows:

AN ACT relating to the judicial branch and making an appropriation therefor.

WHEREAS, a variety of Kentucky courts currently decide such matters as dissolution of marriage, spousal maintenance, child support, adoption, termination of parental rights, establishment of paternity, domestic violence, and juvenile offenses; and

WHEREAS, these decisions drastically affect Kentucky families; and

WHEREAS, dividing family jurisdiction among multiple courts increases the time and expense involved in resolving these often volatile cases and creates inordinate delay between intake and final resolution; and

WHEREAS, establishment of a court devoted exclusively to and specializing in complexities of family law whereby assignment of all related cases to a single judge enhances the quality of service received by families, promotes continuity of judicial decision making, and encourages development of expertise in the management and resolution of family law cases;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

(1) Eight (8) Family Court Pilot Projects are created in the following Supreme Court districts designated by the Chief Justice:

(a) District 1, McCracken County;

(b) District 2, Warren County;

(c) District 3, Pulaski, Rockcastle, and Lincoln Counties;

(d) District 5, Franklin and Madison Counties;

(e) District 6, Boone and Gallatin Counties; and

(f) District 7, Floyd and Pike Counties.

(2) The Supreme Court has certified the need for a total of four (4) additional Circuit Court judgeships: one (1) each in Warren and Franklin Counties, one (1) in Pulaski, Rockcastle, and Lincoln Counties, and one (1) in Boone and Gallatin Counties.

(3) The Supreme Court has certified the need for a total of two (2) additional District Court judgeships, one (1) each in Pike County and McCracken County.

SECTION 2. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

Any Family Court established in Boone and Gallatin Counties shall consist of one (1) Circuit Court Judge.

SECTION 3. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

(1) A Chief Judge of Family Court shall be designated by the Chief Justice at each site identified in subsection (1) of Section 1 of this Act. When a Family Court has a single Family Court Judge, that Judge shall be designated Chief Judge. Each Family Court shall establish a Family Court Council to assist in developing and implementing each new site. The Council shall be multidisciplinary in nature and chaired by the Chief Judge of the Family Court. Each Council shall recommend local rules of Family Court. Pursuant to Supreme Court Rule 1.040(3)(a), local rules shall be written, approved by the Chief Justice, and filed with the Supreme Court Clerk.

(2) The Administrative Office of the Courts shall employ a statewide Family Court Coordinator to assist Family Courts with:

(a) Resource needs;

(b) Standardization of policies;

(c) Practices and procedures;

(d) Training;

(e) Automation;

(f) Data compilation and analysis;

(g) Budgetary needs; and

(h) Coordination of Family Court sites with community and outside agencies.

(3) Family Court jurisdiction shall include, but not be limited to, cases involving:

(a) Domestic or family issues or dissolution of marriage;

(b) Child custody;

(c) Visitation;

(d) Support and equitable distribution;

(e) Adoption and termination of parental rights;

(f) Domestic violence, including emergency protective orders;

(g) Noncriminal juvenile matters, including juvenile mental inquests and self-consent abortions;

(h) Paternity and URESA matters;

(i) Dependency, abuse, or neglect; and

(j) Status offenses, including truancy, unmanageable children, and runaways.

(4) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a Family Court within a judicial circuit, the District Court and the Circuit Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to Family Court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.

Section 4. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

(1) Second Judicial Circuit.

(2) Third Judicial Circuit.

(3) Sixth Judicial Circuit.

(4)[~~Eighth Judicial Circuit.~~

~~(5)~~] Ninth Judicial Circuit.

(5) Eleventh Judicial Circuit.

(6) Fourteenth Judicial Circuit.

(7)[~~(6)~~] Seventeenth Judicial Circuit.

(8)[~~(7)~~] Twenty-fourth Judicial Circuit.

(9)[~~(8)~~] Twenty-fifth Judicial Circuit.

(10)[~~(9)~~] Twenty-seventh Judicial Circuit.

[~~(10) Twenty-eighth Judicial Circuit.~~]

(11) Thirty-first Judicial Circuit.

(12) Thirty-second Judicial Circuit.

(13) Thirty-fourth Judicial Circuit.

(14)[~~Thirty-fifth Judicial Circuit.~~

~~(15)~~] *Fifty-fourth*[~~Forty-eighth~~] Judicial Circuit.

SECTION 5. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

The following judicial circuits are entitled to three (3) Circuit Judges and shall have three (3) numbered divisions of the Circuit Court:

(1) Eighth Judicial Circuit.

(2) Twenty-eighth Judicial Circuit.

(3) Thirty-fifth Judicial Circuit.

(4) Forty-eighth Judicial Circuit.

SECTION 6. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

Any Family Court established in Floyd County shall consist of one (1) District Court Judge.

Section 7. KRS 24A.010 is amended to read as follows:

(1) The District Court is a court of limited jurisdiction; it has original jurisdiction in all matters specified in KRS 24A.110 to 24A.130.

(2) The District Court may be authorized by law to adjudicate the actions or decisions of local administrative agencies, special districts, or boards. Such adjudication shall not constitute an appeal but an original action.

(3) The District Court has no appellate jurisdiction.

(4) The District Court is a court of record.

(5) The District Court is a court of continuous session. Sessions of the District Court may be scheduled at such times, including nights, weekends, and holidays, and at such locations, as may be convenient, subject to the direction of the Supreme Court by rule or order.

(6) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a Family Court within a judicial circuit, the District Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to the Family Court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.

Section 8. KRS 24A.120 is amended to read as follows:

(1) District Court shall have exclusive jurisdiction in:

(a)[~~(1)~~] Civil cases in which the amount in controversy does not exceed four thousand dollars ($4,000), exclusive of interest and costs, except matters affecting title to real estate and matters of equity; however, nothing herein shall prohibit execution levy on real estate in enforcement of judgment of District Court;

(b)[~~(2)~~] Matters involving probate, except matters contested in an adversary proceeding. Such adversary proceeding shall be filed in Circuit Court in accordance with the Kentucky Rules of Civil Procedure and shall not be considered an appeal; and

(c)[~~(3)~~]Matters not provided for by statute to be commenced in Circuit Court shall be deemed to be nonadversarial within the meaning of subsection (2) of this section and therefore are within the jurisdiction of the District Court.

(2) Whenever the Chief Justice, by order pursuant to Section 110(5)(b) of the Constitution of Kentucky, or the Supreme Court, pursuant to Section 116 of the Constitution of Kentucky, establishes a Family Court within a judicial circuit, the District Court shall exercise concurrent jurisdiction, or as the Chief Justice or the Supreme Court may direct, exclusive jurisdiction in all matters assigned to the Family Court, notwithstanding any other statute relating to the subject matter jurisdiction of the Circuit and District Courts.

Section 9. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

(1)[~~ Second Judicial District.~~
~~(2)~~] Third Judicial District.
(2)[~~(3)~~] Fourth Judicial District.
(3)[~~(4)~~] Ninth Judicial District.
(4)[~~(5)~~] Eleventh Judicial District.
(5)[~~(6)~~] Twelfth Judicial District.
(6)[~~(7)~~] Thirteenth Judicial District.
(7)[~~(8)~~] Fourteenth Judicial District.
(8)[~~(9)~~] Fifteenth Judicial District.
(9)[~~(10)~~] Eighteenth Judicial District.
(10)[~~(11)~~] Twenty-first Judicial District.
(11)[~~(12)~~] Twenty-fourth Judicial District.
(12)[~~(13)~~] Twenty-seventh Judicial District.
(13)[~~(14)~~] Twenty-eighth Judicial District.
(14)[~~(15)~~] Twenty-ninth Judicial District.
(15) Thirty-first Judicial District.
(16) Thirty-second Judicial District.
(17) Thirty-fourth Judicial District.

(18) Thirty-fifth Judicial District.
(19) Thirty-eighth Judicial District.
(20) Fortieth Judicial District.
(21) Forty-first Judicial District.
(22) Forty-third Judicial District.
(23)[~~(22)~~] Forty-sixth Judicial District.
(24)[~~(23)~~] Forty-eighth Judicial District.
(25)[~~(24)~~] Fiftieth Judicial District.
(26)[~~(25)~~] Fifty-first Judicial District.
(27)[~~(26)~~] Fifty-third Judicial District.
(28)[~~(27)~~] Fifty-fourth Judicial District.
(29)[~~(28)~~] Fifty-fifth Judicial District.
(30)[~~(29)~~] Fifty-sixth Judicial District.

Section 10. KRS 24A.060 is amended to read as follows:

The following judicial districts are entitled to three (3) District Judges and shall have three (3) numbered divisions of the District Court:

(1) ***Second Judicial District***
(2) Sixth Judicial District.
(3)[~~(2)~~] Eighth Judicial District.
(4)[~~(3)~~] Seventeenth Judicial District.
(5)[~~(4)~~] Twenty-fifth Judicial District.

Section 11. KRS 389A.010 is amended to read as follows:

(1) Notwithstanding any other statutory limitation of the jurisdiction of the District Court:

(a) Any trustee, guardian, conservator, or personal representative (hereinafter "fiduciary"), not otherwise possessing a power of sale, may move the District Court of the county in which the fiduciary has qualified for an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by his ward, decedent, or trust; and

(b) The District Court may enter an order granting the fiduciary the power to sell or mortgage any real estate or any interest therein possessed by the ward, decedent or trust.

(2) The motion shall include an adequate description of the property, a summary of the grounds for the motion, and a request that the bond of the fiduciary be increased in an adequate amount in accordance with KRS 395.130.

(3) Unless waived in writing, written notice of the hearing with a copy of the motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action upon all persons who have a vested or contingent interest in the property interest sought to be sold. Where the property interest sought to be sold belongs to a person under legal disability, service of notice and defense shall be governed by Civil Rules 4.04(3) and 17.03.

(a) In the case where the subject of the action is the property interest of a person under legal disability, unless waived in writing, written notice by certified mail, return receipt requested shall be given to all known adult next of kin of:

1. The nature and pendency of the action; and

2. Not less than thirty (30) days' notice of the time, date and location of the hearing on the motion. At or before the hearing, the fiduciary or his attorney shall file an affidavit on personal knowledge showing compliance with this paragraph and attaching a copy of the notice given and the original of all receipts returned.

(b) All such persons shall have standing to present evidence and to be heard at the hearing.

(4) An aggrieved party may no later than thirty (30) days from the date of the order, institute an adversary proceeding in Circuit Court pursuant to ***subsection (1)(b) of Section 8 of this Act***[~~KRS 24A.120(2)~~] in respect to any order affecting the right of the fiduciary to sell or mortgage. Pending the entry of a final order and expiration of the time for an appeal therefrom, neither the fiduciary nor the owner of any vested interest shall make any conveyance or mortgage of the real estate and any attempt to do so shall be null and void.

(5) No proceedings under this section shall be conducted by or before a commissioner of the District Court.

Section 12. KRS 391.035 is amended to read as follows:

(1) Whenever real or personal property passes by the laws of intestate succession, or under a will to a beneficiary not named in such will, proceedings may be had in the District Court to determine the persons entitled to such property.

(2) (a) If an estate is in process of administration the executor, administrator or any person claiming an interest in the property may file a motion in the District Court where administration is in process. If there is no pending administration or administration has been dispensed with, any person claiming an interest in the property may file a motion in the District Court of the county in which the decedent last resided or in the event the decedent was not a Kentucky resident, in the District Court of the county in which the property, or the greater part thereof, is located;

(b) The motion shall set forth all of the facts known to movant relating to the matter, including the names, ages and addresses of all persons who are or may be entitled to share in such property and their relationship to the decedent or to the class of beneficiaries entitled to share. The motion shall also describe the property under consideration and an estimate of its value;

(c) The motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action and shall set forth the place and time (which shall not be less than twenty (20) days from the date of service) when the motion will come on for hearing.

(3) Upon the hearing on the motion any person claiming an interest in the property may introduce proof in support of his claim and the court may entertain the admission of any other relevant evidence to aid the court in determining the persons entitled to share in the property.

(4) After hearing all the evidence the court shall enter judgment in which the names, ages and addresses of the persons entitled to share in the property are set forth and the proportionate interest of each.

(5) In a case where some or all of the property is real estate located in this state a certified copy of the judgment shall be recorded in the office of the appropriate county clerk in lieu of the affidavit required by KRS 382.120.

(6) Any party may at any time prior to judgment institute an adversary proceeding in Circuit Court pursuant to ***subsection (1)(b) of Section 8 of this Act***[~~KRS 24A.120(2)~~].

(7) Any aggrieved party may no later than thirty (30) days from the date of the judgment, institute an adversary proceeding in Circuit Court pursuant to ***subsection (1)(b) of Section 8 of this Act***[~~KRS 24A.120(2)~~].

(8) Any unknown defendants before the court by constructive service alone shall be entitled to the protection afforded by Civil Rule 4.11.

(9) No proceedings under this section shall be conducted by or before a commissioner of the District Court.

Section 13. KRS 395.617 is amended to read as follows:

(1) A fiduciary may, prior to filing a periodic or final settlement and prior to a distribution of assets, file with the court a proposed settlement. The proposed settlement shall be set for hearing and notice given as for any other settlement except that beneficiaries of the estate, other than nonresiduary legatees who have received and receipted for their legacies, shall also receive notice from the fiduciary by certified mail, return receipt requested, at least twenty (20) days prior to the hearing date. The proposed settlement shall set forth all assets and disbursements previously made; shall indicate assets on hand and anticipated to be received subsequent to the date of the proposed settlement and prior to the filing of the periodic or final settlement; and shall further indicate the manner in which the remaining and anticipated assets are proposed to be distributed. The proposal may set forth which assets are to be distributed in kind and to whom and which assets may be liquidated for distribution of cash or for payment of debts, costs of administration, or pecuniary legacies. The proposal may also indicate claims proposed to be allowed or disallowed, in whole or in part, and may also indicate fees and commissions proposed to be paid to the fiduciary and his attorney. The inclusion of evidence and vouchers to accompany the proposal shall not be necessary unless required by the court upon exceptions filed. At the hearing, if no exceptions are filed, the proposal, if made according to law, shall be approved. If exceptions are filed, other evidence besides that reported may be heard, and the court shall, upon the whole case, reject, confirm, alter, or amend the proposal. Following the entry of an order of approval or of an order of amendment, the fiduciary shall disburse the assets in accordance therewith. Following the distribution, the fiduciary shall file a settlement accompanied by evidence and vouchers showing that distribution was effected in conformity with the court order. If it appears to the court that the distribution was in conformity, the court shall confirm the settlement and, if the settlement is final, discharge the fiduciary and his surety without further hearing or notice to any person.

(2) An aggrieved party may, no later than thirty (30) days from the entry of the order upon the proposed settlement, institute an adversary proceeding in Circuit Court pursuant to ***subsection (1)(b) of Section 8 of this Act***[~~KRS 24A.120(2)~~].

Section 14. There is appropriated one million five hundred and four thousand one hundred dollars ($1,504,100.00) from the General Fund in fiscal year 1998-1999 and two million seven hundred and fifty-six thousand one hundred dollars ($2,756,100.00) from the General Fund in fiscal year 1999-2000 to implement the six (6) Family Court Pilot Projects identified in subsection (1) of Section 1 of this Act.

Section 15. Unless otherwise noted in this section, the effective date of this Act is July 1, 1998. Subsection (15) of

Section 9 of this Act takes effect January 1, 1999. The amendment removing the Eighth Judicial Circuit and the Twenty-eighth Judicial Circuit from former subsections (4) and (10) of Section 4 of this Act, subsections (1) and (2) of Section 5 of this Act, the amendment removing the Second Judicial District from former subsection (1) of Section 9 of this Act, and subsection (1) of Section 10 of this Act shall all take effect July 1, 1999. Subsection (6) of Section 4 of this Act and subsection (21) of Section 9 of this Act take effect January 1, 2000.

The Committee Amendment No. 1 to **HB 617** is as follows:

On page 1, line 14, after "purposes", by adding "***, or a residential program operated or contracted by the Department of Juvenile Justice that maintains accreditation, or obtains accreditation within two (2) years of opening from a nationally recognized accrediting organization***".

The Committee on Appropriations and Revenue reported **HB 289,** with Committee Amendment attached thereto, **HB 588,** and **HB 675,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 289, AN ACT relating to the affordable housing trust fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154A.110 is amended to read as follows:

(1) Proceeds of lottery prizes shall be subject to Kentucky state income tax. Any attachments, garnishments, or executions authorized and issued pursuant to statute shall also be withheld if served upon the process agent of the corporation. This section shall not apply to a retailer.

(2) The board shall adopt rules to establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes, except that:

(a) No prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable. Any prize, or portion thereof, remaining unpaid at the death of a prize winner shall be paid to the estate of such deceased prize winner or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled.

(b) No ticket shall knowingly be sold to any person under the age of eighteen (18), but this section does not prohibit the purchase of a ticket by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment to an adult member of the person's family or the legal guardian of the person on behalf of such person. The person named as custodian shall have the same powers and duties as prescribed for a custodian pursuant to the Uniform Transfers to Minors Act.

(c) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.

(d) No particular prize in any lottery game shall be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.

(e) A holder of a winning cash ticket from a Kentucky lottery game shall claim a prize within three hundred sixty five (365) days (for a ticket issued before January 1, 1995), and within one hundred eighty (180) days (for a ticket issued on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the drawing in which the prize was won. In any Kentucky lottery game in which the player may determine instantly if he has won or lost, he shall claim a prize within three hundred sixty five (365) days (for lottery games commenced or tickets printed or reprinted before January 1, 1995), and within one hundred eighty (180) days (for lottery games commenced or tickets printed or reprinted on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game as announced by the corporation. However, a holder of a pull-tab lottery ticket shall claim a prize within the time period and in the manner printed on the ticket. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

(f) No prize shall be paid upon a ticket purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

(3) Any unclaimed prize money shall be ***transferred to the affordable housing trust fund established by KRS 198A.710 no later than the tenth day of the month following each calendar quarter***[~~added to the pool from which future prizes are to be awarded or used for special prize promotions~~].

(4) The corporation is discharged of all liability upon payment of a prize.

(5) No ticket shall be purchased by and no prize shall be paid to any of the following persons:

(a) Any member of the board of directors, officers, or employees of the corporation;

(b) Any vendors or related entities, or any member of the board of directors, officers, employees of, partners in, or owners of any vendors or related entities to the vendors; or

(c) Any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any such person.

The Committee Amendment No. 1 to **HB 289** is as follows:

On page 3, line 8, after "(3)" by inserting the following:

"***For fiscal year 1998-99 and each fiscal year thereafter, the first six million dollars ($6,000,000) of any unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions and any amount in excess of six million ($6,000,000) shall be transferred to the affordable housing trust fund established by KRS 198A.710***" and by deleting the new language on line 8 through line 10 and by removing the brackets and strikethroughs on lines 10 and 11 and on line 10 by placing an opening bracket before the word "Any" and on line 11 placing a closing bracket after the word "promotions" and striking through the language in between.

HB 588, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. Sec. 81, fifteen cents ($0.15) upon machinery of individuals or corporations actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;

3. Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable, and all other intercompany intangible personal property due from the company; and

4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, shares of stock, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property and the state revenue shall be devoted to the program described in KRS 146.550 through 146.570 except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Coal Marketing and Export Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 2. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460 based on the vehicle's fair market value at the time of sale;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095;~~[and]~~

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800*; and*

(18) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs.

Section 3. The amendments contained in Sections 1 and 2 of this Act shall apply to property assessed on or after January 1, 1999.

HB 675, AN ACT relating to sales and use tax and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property the

gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to twenty-five cents ($0.25) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;

(b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally-owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally-owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the seller and the seller

maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale are not subject to the sales or use tax. The property shall be regarded as having been purchased for resale. For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;~~[and]~~

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority***; and***

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for exclusive use, storage, or consumption outside this state and delivered by the seller's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the buyer or seller or an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.

(a) As used in this subsection:

1. "Catalogs" means printed advertising publications or similar materials that are to be distributed by the purchaser to potential customers;

2. "Common carrier" and "contract carrier" have the same meaning as provided in KRS 281.011; and

3. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The requirement that the purchase of newspaper inserts or catalogs shall be for exclusive use, storage, or consumption outside this state shall not be violated if:

1. Catalogs originally delivered outside the state reenter the state through delivery by the purchaser or the purchaser's agent to customers or potential customers of products sold by the purchaser in Kentucky; or

2. Newspaper inserts originally delivered outside the state reenter the state as a part of a newspaper that is sold or delivered in Kentucky.

(c) The seller shall be responsible for establishing that delivery was made to a non-Kentucky location through

shipping documents or other credible evidence as determined by the cabinet.

Section 2. The amendments included in this Act are intended to clarify existing confusion about the intent of the Legislature with regard to the application of the sales and use tax to the sale of newspaper inserts or catalogs delivered outside this state, and purchased for use, storage, or consumption outside this state.

Section 3. The amendments included in the Act shall be effective for sales made on or after January 1, 1988.

Section 4. Whereas it is of utmost importance that the confusion surrounding this issue be resolved in an expedient manner, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute to **HB 675** is as follows:

AN ACT relating to sales and use tax and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to twenty-five cents ($0.25) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;

(b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally-owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally-owned electric distributor which does

not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the seller and the seller maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale are not subject to the sales or use tax. The property shall be regarded as having been purchased for resale. For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;~~[and]~~

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority***; and***

(13) Gross receipts from the sale of newspaper inserts or catalogs purchased for exclusive use, storage, or consumption outside this state and delivered by the seller's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether

the carrier is selected by the buyer or seller or an agent or representative of the buyer or seller, or whether the F.O.B. is seller's shipping point or buyer's destination.

(a) As used in this subsection:

1. "Catalogs" means publications that are printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale;

2. "Common carrier" and "contract carrier" have the same meaning as provided in KRS 281.011; and

3. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.

(b) The requirement that the purchase of newspaper inserts or catalogs shall be for exclusive use, storage, or consumption outside this state shall not be violated if:

1. Catalogs originally delivered outside the state reenter the state through delivery by the purchaser or the purchaser's agent to customers or potential customers of products sold by the purchaser in Kentucky; or

2. Newspaper inserts originally delivered outside the state reenter the state as a part of a newspaper that is sold or delivered in Kentucky.

(c) The seller shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the cabinet.

Section 2. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Revenue Cabinet:

(1) The cabinet may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The cabinet, by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files, and equipment of any taxpayer or of any person whose records, documents, or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably necessary for purposes incident to the performance of its functions. The cabinet may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the cabinet.

(3) The cabinet shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(4) The cabinet shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) Attorneys employed by the cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Revenue Cabinet attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the cabinet or at the request of the secretary of the Revenue Cabinet, the Attorney General or his designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The cabinet may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the cabinet for administration.

(8) The cabinet may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the secretary may deem wise.

(9) The cabinet may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.

(10) The cabinet may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee.

Section 3. The amendments included in Section 1 of this Act are intended to clarify existing confusion about the intent of the Legislature with regard to the application of the sales and use tax to the sale of newspaper inserts or catalogs delivered outside this state, and purchased for use, storage, or consumption outside this state.

Section 4. The amendments included in Section 1 of this Act shall be effective for sales made on or after January 1, 1988.

The Committee Amendment No. 1 Title to **HB 675** is as follows:

By amending the title to read as follows:

"AN ACT relating to revenue and taxation."

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 146**, by Representative G. Graham:

On page 4, line 24 by deleting "***after consulting with the***";

On page 4, by deleting line 25 in its entirety; and

On page 4, line 26 by deleting "***Training Program***".

Floor Amendment No. 17 to the Committee Substitute No. 2 to **HB 327**, by Representative Hoover:

On page 2, line 24, following the word "months." to insert the following:

> "***If the alcohol concentration in the driver's blood is 0.15 or higher on the second offense within a five (5) year period, the driver shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months, and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months.***"; and

On page 3, line 3, following the word "months." to insert the following:

> "***If the alcohol concentration in the driver's blood is 0.15 or higher on the third offense within a five (5) year period, the driver shall be guilty of a Class D felony.***".

Calendar

HB 742, SB 136, HB 496, HB 527, HB 650, HB 676, HB 684, HB 739, HJR 60, HB 266, HB 550, HB 648, HB 716, HB 722, HB 775, HB 783, HB 854, SB 198, HB 495, HB 635, HB 674, HB 740, HB 741, HJR 98, SB 85, SB 221, HB 200, HB 334, HB 489, HB 490, HB 529, HB 552, HB 556, HB 667, HB 668, HB 689, HB 690, HB 692, HB 725, HB 736, HB 753, HB 754, and **HB 791** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 49**, by Representative DeWeese:

On page 1, after line 2 by deleting subsections (1) and (2) in their entirety and by inserting in lieu thereof the following:

"***In a county with a city of the first class, a permit to build single-family residences, multi-family residences, and commercial buildings shall be issued if the construction plans met the requirements of the ordinance regulating that construction at the time the plans were initiated.***".

Floor Amendment No. 1 to **HB 676**, by Representative Coleman:

On page 6, line 9 after "***(3)***" by inserting "***A title lender shall be subject to the same basic fee, default and other charges as provided in KRS 288.530.***" and by deleting "***During the first sixty (60) days of any title pledge loan transaction or extension or***";

On page 6 by deleting lines 10 to 19 in their entirety;

On page 6, line 20 by deleting "***(6)***" and inserting in lieu thereof "***(4)***";

On page 6 line 22 by deleting "***subsections***" and inserting in lieu thereof "***subsection***", after "***(3)***" by deleting "***and (4)***";

On page 7, line 5 by deleting "***subsections***" and inserting in lieu thereof "***subsection***", after "***(3)***" by deleting "***and (4)***";

On page 7, line 15 by deleting "***(7)***" and inserting in lieu thereof "***(5)***";

On page 7, line 16 by deleting "***subsections***" and inserting in lieu thereof "***subsection***", after "***(3)***" by deleting "***and (4)***";

On page 7, line 18 by deleting "***subsections***" and inserting in lieu thereof "***subsection***", after "***(3)***" by deleting "***and (4)***"; and

On page 11, line 25 by deleting "***subsections***" and inserting in lieu thereof "***subsection***", after "***(3)***" by deleting "***and (4)***".

Floor Amendment No. 5 to **HB 671**, by Representative DeWeese:

On Page 1, line 10, after the word "***citizens***" by deleting the rest of that line and inserting and underlining in lieu thereof "***whose primary business is not in***"; and

On Page 1, line 11, after the word "***or***" by deleting the rest of that sentence and inserting and underlining in lieu thereof "***the provision of construction materials***"; and

On Page 1, line 20, after the word "***interest.***" by inserting and underlining the following new sentence, "***For the purposes of this section, "family" shall be defined by the fiscal court and the legislative body of the largest city of the county.***".

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 85, HB 206, HCR 81, HB 327, HB 65, HB 535, HB 539, HB 582, HB 608, HB 728, HB 757, SB 161, HB 45, HB 122, HB 200, HB 334, HB 489, HB 490, HB 495, HB 496, HB 527, HB 648, HB 668, HB 676, HB 684, HB 722, HB 725, HB 739, HB 742, HB 783, HJR 60, HB 217, HB 249, HB 444, HB 449, HB 544,** and **HB 617**, have been posted for passage in the Orders of the Day for March 9, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 113, SB 202**

Orders of the Day

HB 611, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 611**. Agreed.

Representative Palumbo moved that **HB 611**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 6, 1998 roll call on **HB 611** - Appendix.) **HB 611**, by way of Committee Substitute, was passed and the title agreed to. Representative Palumbo moved that the vote by which **HB 611**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 218** and **HB 392** have been examined and found correctly enrolled.

Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:40 a.m.)

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 728**, by Representative R. Adams:

On page 2, line 12, by deleting "***Persons under the age of eighteen***"; and

On page 2, lines 13 through 16, by deleting the lines in their entirety.

Floor Amendment No. 19 to the Committee Substitute to **HB 85**, by Representative Stumbo:

On page 2, line 18, after the word "***induced***" to insert the following:

"***Women eighteen (18) years of age or older shall have the option of waiving in writing the twenty-four (24) hour notice period provided for in paragraphs (a), (b), and (c) of this subsection.***"

Floor Amendment No. 20 to the Committee Substitute to **HB 85**, by Representative Johns:

On page 6, lines 5 through 7 to delete the same.

Floor Amendment No. 22 to the Committee Substitute to **HB 85**, by Representative Johns:

On page 2, line 22 after the word "***verbally***" to insert "***, or by a sign language interpreter for the hearing impaired,***".

Orders of the Day (Continued)

HB 537, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 537**. Agreed. Representative Wilkey moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 537**. Agreed.

Representative Wilkey moved that **HB 537**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 6, 1998 roll call on **HB 537** - Appendix.) **HB 537**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Wilkey moved that the vote by which **HB 537**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 636, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved that **HB 636** be passed.

Representative Anderson moved that Floor Amendment No. 2 to **HB 636** be withdrawn. Agreed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 6, 1998 roll call on **HB 636** - Appendix.) **HB 636** was passed and the title agreed to. Representative Brown moved that the vote by which **HB 636** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 63, with House Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cave moved the adoption of the House Committee Substitute to **SB 63**. Agreed. Representative Cave moved the adoption of Floor Amendment No. 3 to the House Committee Substitute to **SB 63**. Agreed. Representative Cave moved the adoption of Floor Amendment No. 2 to the House Committee Substitute to **SB 63**. Agreed.

Representative Cave moved that **SB 63**, by way of House Committee Substitute as amended, be passed.

Representative Gooch moved the adoption of Floor Amendment No. 5 to the House Committee Substitute to **SB 63**. Representative Gooch moved that Floor Amendment No. 5 to the House Committee Substitute to **SB 63** be withdrawn. Agreed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 6, 1998 roll call on **SB 63** - Appendix.) **SB 63**, by way of House Committee Substitute as amended, was passed and the title agreed to. Representative Cave moved that the vote by which **SB 63**, by way of House Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 21 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 2, line 20, after "***(a)***" to delete "***At least twenty-four (24) hours***"; and

On page 3, line 5, after the "***(b)***" to delete "***At least twenty-four (24) hours***"; and

On page 3, line 20, after the "***(c)***" to delete "***At least twenty-four (24) hours***".

Floor Amendment No. 23 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 4, line 9, after the word "***English***" to insert "***, Spanish, Vietnamese, and Japanese***"; and

On page 4, line 10, following the word "***type***" to insert "***and in Braille***"; and

On page 5, lines 19 and 20, after the word "***copy***" to delete "***sufficient to cover the cost of preparation of the materials and postage.***" and insert in lieu thereof:

"***at a rate of no more than ten dollars ($10) per one hundred (100) copies.***".

Floor Amendment No. 1 to **HB 650**, by Representative Treesh:

On page 5 after line 4 and before line 5 by inserting the following;

"***(5) An insured who has received notification set forth in subsection (2) of Section 1 of this Act shall pay the county clerk a fee of five dollars ($5) when proof of insurance is presented to the clerk.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 608**, by Representative Riner:

On page 3, line 19 after "***Act***" by inserting "***. The administrative regulations shall also include a requirement that a fee-based pastoral counselor waive the fee for services for any person whose income falls below the federal poverty level***".

Floor Amendment No. 1 to **SB 259**, by Representative Long:

On page 1, line 11, after the word and number "***one (1)***" delete the words "***or more***"; and

On page 1, line 12, after the word "***day***" insert "***period.***" delete the remainder of the line in its entirety; and

On page 1, line 13, delete line 13 in its entirety; and

On page 1, line 25, after the word and number "***one (1)***" delete the words "***or more***"; and

On page 2, line 1, after the word "***day***" insert "***period.***" delete the remainder of the line in its entirety; and

On page 2, line 2, delete line 2 in its entirety.

Orders of the Day (Continued)

HB 627, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 627**. Agreed. Representative Moberly moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 627**. Agreed.

Representative Moberly moved that **HB 627**, by way of Committee Substitute as amended, be passed.

Representative Walton moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 627**. Representative Walton moved that Floor Amendment No. 2 to the Committee Substitute to **HB 627** be withdrawn. Agreed.

Representative Walton moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 627**. Representative Lindsay inquired if Floor Amendment No. 1 to the Committee Substitute to **HB 627** was germane. The Speaker ruled that Floor Amendment No. 1 to the Committee Substitute to **HB 627** was not germane.

Representative Crimm moved that **HB 627** be passed over and placed back in the Orders of the Day. On the roll call to pass over **HB 627** the vote was: Yeas 6, Nays 84 (See March 6, 1998, roll call on - Appendix.) The motion that **HB 627** be passed over was rejected.

On the roll call on the passage of **HB 627** the vote was: Yeas 62, Nays 33 (See March 6, 1998 roll call on **HB 627** - Appendix.) **HB 627**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 627**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that when the House does adjourn it does so until 4: 00 p.m., March 9, 1998. Agreed. Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 692**, by Representative Wilkey:

On page 5, line 13, delete "***Except as provided,***"

Floor Amendment No. 18 to the Committee Substitute to **HB 327**, by Representative Stumbo:

On page 4, line 15, following "person to" to insert "***complete***" and to place brackets around and strike through "attend"; and

On page 6, line 20, through page 7, line 18, to delete all new underlined material and to delete all bracketing and strikethroughs.

Floor Amendment No. 24 to the Committee Substitute to **HB 85**, by Representative Geveden:

On page 2, lines 20 through 22, by deleting "***physician, licensed nurse, physician assistant, or social worker to whom the responsibility has been delegated by the physician***" and inserting in lieu thereof "***qualified person or a representative of a county health department***"; and

On page 3, lines 6 and 7, by deleting "***physician, licensed nurse, physician assistant, or social worker to whom the responsibility has been delegated by the physician,***" and inserting in lieu thereof "***qualified person or a representative of a county health department***"; and

On page 3, line 12, by deleting "***physician, licensed nurse, physician assistant, or social worker***" and by inserting in lieu thereof "***qualified person or representative of a county health department***"; and

On page 3, line 22, after "***materials***" by inserting "***. All physicians who perform abortions, all physicians who engage in the practice of obstetrics and gynecology, and all county health departments shall keep copies of these materials***"

On page 5, line 14, by deleting "***person, hospital, physician, or medical facility***" and inserting in lieu thereof "***qualified person or a county health department***"; and

On page 5, lines 17 and 18, by deleting "***person, hospital, physician or medical facility***" and inserting in lieu thereof "***qualified person or county health department***".

Floor Amendment No. 25 to the Committee Substitute to **HB 85**, by Representative Geveden:

On page 2, line 22 delete "***the physician***" and insert "***public health department***"; and

On page 3, line 7,delete "***the physician***" and insert "***public health department***"; and

On page 3, line 12, to delete "***the***" and insert in lieu thereof "***a***".

Floor Amendment No. 26 to the Committee Substitute to **HB 85**, by Representative Johns:

On page 2, line 21, after the word "***assistant,***" to delete the word "***or***" and immediately after the word "***worker***" to insert the words "***, or by any health department nurse or physician***"; and

On page 3, line 6, after the word "***assistant,***" to delete the word "***or***" and on line 7 immediately after the word "***worker***" to insert the words "***, or by any health department nurse or physician***"; and

On page 3, line 12, after the word "***assistant,***" to delete the word "***or***" and immediately after the word "***worker***" to insert the words "***, or by any health department nurse or physician***".

Floor Amendment No. 27 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 2, line 22, delete "***verbally***"; and

On page 3, lines 5 and 6 to delete "***, in an individual, private setting***".

Floor Amendment No. 28 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 3, on lines 12 and 13 to delete the new language in its entirety, and to insert in lieu thereof "***any public school, any public library, or any public health department;***"

Floor Amendment No. 29 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 2, lines 20 to 23, after "***abortion,***" to delete the remainder of the paragraph and insert "***the local public health department had made available to a pregnant woman the following:***"; and

On page 3, line 5, after "***abortion,***" to delete the remainder of the paragraph and insert "***the local public health department had made available to a pregnant woman the following:***"

On page 3, line 12, to delete "***physician, licensed nurse, physician assistant, or social worker***" and insert in lieu thereof "***local health department***".

Floor Amendment No. 30 to the Committee Substitute to **HB 85**, by Representative Johns:

On page 9, between lines 23 and 24 to insert the following:

"SECTION 4. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

In order to reduce the number of abortions being performed, all public high schools shall offer a sexual education curriculum that includes discussion and teaching about abstinence. Each local school board may determine the exact length and curriculum of this course but each child shall attend before being allowed to graduate."; and

On page 9, line 24 delete the "4" and insert a "5" in lieu thereof.

Floor Amendment No. 31 to the Committee Substitute to **HB 85**, by Representative Johns:

On page 9, between lines 23 and 24 to insert the following:

"SECTION 4. A NEW SECTION OF KRS 311.710 TO 311.820 IS CREATED TO READ AS FOLLOWS:

In order to reduce the number of abortions being performed, all public high schools shall offer a course in parenting to teach all young people the responsibilities of being a parent. Part of this class shall include the use of infant simulators."; and

On page 9, line 24 delete the "4" and insert a "5" in lieu thereof.

Floor Amendment No. 32 to the Committee Substitute to **HB 85**, by Representative Geveden:

On page 2, line 17, by deleting "***written***"; and

On page 2, line 22, after "***physician***" to delete "***has verbally informed the woman of all of the following***" and insert "***has made available information on the Internet that informs a woman of the following***" in lieu thereof; and

On page 3, line 7, after "***physician,***" to delete "***has verbally informed the pregnant woman that***" and insert "***has made available information on the Internet that informs a woman of the following***" in lieu thereof; and

On page 3, line 20 through 22 to delete the same; and

On page 3, line 23, to delete "***(d)***" and insert "***(c)***"; and

On page 3, line 26, to delete the first "***,***" and insert "***and***" in lieu thereof; and

On page 3, line 26, to delete "*, and (c)*"; and

On page 4, line 3, to delete "*(e)*" and insert "*(d)*"; and

On page 4, line 7, to delete "*(d)*" and insert "*(c)*" in lieu thereof.

Floor Amendment No. 33 to the Committee Substitute to **HB 85**, by Representative Palumbo:

On page 6, between lines 7 and 8, to insert the following:

"*(7) Any facility that provides the abortion information specified in this section, or abortion alternatives, shall give unbiased, accurate information on all options and inform the client or patient of the nature of the treatment and the risks with each option. The materials shall include a comprehensive list of obstetric services, abortion providers, and adoption agencies as well as available medical assistance benefits and of the support obligations of the father of a child who is born alive.*"

Floor Amendment No. 34 to the Committee Substitute to **HB 85**, by Representative Marzian:

On page 6, between lines 7 and 8, to insert the following:

"*(7) Any facility that provides pregnancy tests, abortion information, abortion alternatives, and options counseling must meet the same standards of care as other offices providing similar services, including proficiency testing protocols, regulations regarding disposal of bio-hazardous wastes and infectious materials, staff and personnel qualifications, and all federal, state, and local laws and regulations that apply.*"

Floor Amendment No. 1 to the Committee Substitute to **HB 255**, by Representative Mason:

On page 2, By deleting lines 22 through 25 in their entirety and inserting the following in lieu thereof:

"*(2) The schedule of benefits to be covered by the Children's Health Insurance Program shall be at least equivalent to one (1) of the following:*

(a) The standard Blue Cross/Blue Shield preferred provider option under the Federal Employees Health Benefit Plan established by 5 U.S.C. sec. 8903(1);

(b) A mid-range health benefit coverage plan that is offered and generally available to state employees; or

(c) Health insurance coverage offered by a health maintenance organization that has the largest insured commercial, non-Medicaid enrollment of covered lives in the state;".

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Appropriations and Revenue meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Representative Yonts moved the adoption of the following **Legislative Citation No. 134**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Second Baptist Church Sonshine Ministries for demonstrating an exemplary interest in the democratic process and in the daily actions of the Kentucky legislature. The members of the Kentucky House of Representatives are pleased to join with Representative Brent Yonts in applauding the outstanding work of this dedicated group of Christians and in welcoming the Second Baptist Church Sonshine Ministries to the 1998 Regular Session of the Kentucky General Assembly. **Legislative Citation No. 134** was adopted without objection.

Representative Anderson moved the adoption of the following **Legislative Citation No. 137**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincere congratulations to Hobie Anderson, Jr. upon the celebrated occasion of his Fifth Birthday. Born March 6, 1993 at 10:21 a.m., this exceptional young man has brought unceasing joy and delight to the lives of his adoring parents, Representative and Mrs. Anderson. Inasmuch as young Hobie is indeed the cherished treasure of his mother, Sidney, and the pride and namesake of his father, the members of this august body are pleased to join with Representative Hoby Anderson in offering sincere and heartfelt birthday wishes to Hobie Anderson, Jr. and in extending to him best wishes for the future. **Legislative Citation No. 137** was adopted without objection.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 633**, by Representative Anderson:

On page 8, line 18, by inserting "***(1)***" at the beginning of line 18; and

On page 8, between lines 25 and 26, by inserting the following:

"***(2) The Personnel Department shall develop and propose, and the Personnel Pilot Steering Committee shall approve, a pilot personnel program for collective bargaining.***"

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 128, by Representatives Hatcher, Riner, and Jordan: A RESOLUTION adjourning the House in honor of the West Louisville Boys Choir.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 886, SB 211, HJR 116, HR 111, HJR 109**

Agriculture and Small Business: **HB 802, HB 904, SB 247, HJR 117**

State Government: **HB 727, HB 732, HB 768, HB 777, HB 784, HB 887, HB 789, HB 801, HB 34, HB 704, HB 795, HB 797, HB 853, HCR 113, SB 77, HB 164, HB 857**. Posting withdrawn on **HR 44**.

Judiciary: **HB 880, HB 665, HB 803, HB 891, HB 480, SB 36, SB 74, SB 205, SB 250, HB 483, HB 896**

Economic Development: **HB 911**

Counties and Special Districts: **HB 810, HB 630**

Education: **HB 482, HB 522, HB 606, HB 616, HB 706, HB 710, HB 715, HB 724, HB 729, HB 731, HB 733, HB 779, HB 782, HB 805, HB 815, HB 859, HB 882, HB 900, HB 907, HB 920**

Report of Committees (Continued)

The Committee on Agriculture and Small Business reported **HB 626**, with Committee Substitute attached thereto, **HB 699, HB 709**, with Committee Substitute attached thereto, **HB 769, HB 774**, and **HB 776** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 626, AN ACT relating to animal control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and subsections (3) and (4) of KRS 258.990, unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Committee" means the advisory committee created by KRS 258.115;

(4) "Dog" means any member of the canine family, six (6) months of age or over;

(5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

(6) "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine and confined and domesticated hares and rabbits;

(7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;

(8) "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;

(9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions***;***

(10) "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;

(11) "Vicious dog" means any individual dog declared by a court to be a vicious dog; and

(12) "Animal control officer" means an individual employed by a city, county, urban-county government, or charter county government who enforces the provisions of this chapter and local dog control ordinances.

Section 2. KRS 258.195 is amended to read as follows:

(1) On or before July 1, 1954, the fiscal court of each county shall employ a dog warden. On or before July 1, 1955, the fiscal court of each county shall establish and maintain a dog pound as a means of facilitating and administration of this chapter. In counties of small population, arrangements may be made for the joint establishment and operation of dog pounds by two (2) or more counties on a mutually satisfactory basis. Instead of setting up pounds, one (1) or more counties acting jointly may take advantage of the facilities of suitable pounds already in operation by counties, cities, humane societies, or other organizations or individuals. Fiscal courts may adopt and enforce regulations relative to pound standards, the naming of persons who shall serve as dog wardens, providing for the fixing of salaries of wardens and assistants, and such other matters that may be incidental to efficient and proper operation of the dog pound plan.

(2) As a means of providing a portion of the funds for setting up and operating dog pounds, fifty cents ($0.50) out of the one dollar and fifty cents ($1.50) paid for every dog license sold in each county shall be credited by the department to a special enforcement fund to be refunded to the respective counties on a pro rata basis determined by the licenses sold in each county, and shall be used in meeting expenses of the dog warden and the dog pound plan.

(3) Dog wardens may be designated as agents of the department for purposes of appraising livestock losses pursuant to KRS 258.275.

(4) Cities, counties, urban-county governments, or charter county governments may employ animal control officers for the enforcement of KRS Chapter 258 and local dog control ordinances within their corporate limits. Cities, urban county governments, or charter county governments may enter into agreements with the counties for the enforcement of the county's ordinances. The agreement shall include, but shall not necessarily be limited to, setting out the jurisdiction and the duties of the officer or warden respective to the agreement.

(5) Dog wardens and animal control officers shall have the authority to issue uniform citations only for the enforcement of the provisions of this chapter or dog control ordinances in their respective jurisdictions.

Section 3. KRS 258.215 is amended to read as follows:

(1) Peace officers***, dog wardens, or animal control officers*** shall seize and impound any dog which does not bear a proper license tag or other legible identification which is found running at large, but if an officer, ***dog warden, or animal control officer,*** after diligent effort to do so, should fail to seize such a dog, it shall then become his duty to destroy the dog by any reasonable and humane means. Any such dog which an officer***, dog warden, or animal control officer*** seizes shall be impounded for seven (7) days, and if not claimed by the owner or sold in accordance with other provisions of this chapter, then such dog may be destroyed in some humane manner.

(2) A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if such hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, such owner or handler shall not be deemed to be in violation of the provisions of this section as a result of such dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

Section 4. KRS 258.225 is amended to read as follows:

(1) It shall be unlawful for any peace officer***, dog warden, or animal control officer*** to refuse to perform his duties under the provisions of this chapter, or to refuse to assist in the enforcement of this chapter upon request of the Commissioner.

(2) It shall be unlawful for any person to interfere with any officer***, dog warden, or animal control officer,*** or agent in the enforcement of this chapter.

Section 5. KRS 258.235 is amended to read as follows:

(1) Any person may kill any dog which he sees in the act of pursuing, worrying, or wounding any livestock, or wounding or killing poultry, or attacking human beings, whether or not such dog bears the license tag required by the provisions of this chapter. There shall be no liability on such person in damages or otherwise for~~[such]~~ killing***, injuring from an attempt to kill, or for seizing the dog***.

(2) Any unlicensed dog, not accompanied by its owner or keeper, that enters any field or inclosure where livestock or poultry

are confined shall constitute a private nuisance and the owner or tenant of such field ***or inclosure***, or his agent or servant, may kill ***or seize*** such dog while it is in the field or inclosure, without liability or responsibility of any nature for[~~such~~] killing***, injuring from an attempt to kill, or for seizing the dog***.

(3) ***Any dog deemed in violation of this section, and seized by a property owner or his agent shall be surrendered over to the dog warden, animal control officer, or a peace officer for impoundment as stipulated in Section 3 of this Act.***

(4) Subsection (2) of this section shall not apply to licensed dogs, when accompanied by their owner or handler, unless caught in the act of worrying, wounding, or killing any livestock, or wounding or killing poultry, or attacking human beings.

(5)[~~(4)~~] ***(a)*** Any person who has been attacked by a dog, or anyone for such person, may make a complaint before the district court, charging the owner or keeper of such dog with harboring a vicious dog. A copy of such complaint shall be served upon the person so charged in the same manner and subject to the laws regulating the service of summons in civil actions directing him to appear for a hearing of such complaint at a time fixed therein. If such person fails to appear at the time fixed, or if upon a hearing of the parties and their witnesses, the court finds the person so charged is the owner or keeper of the dog in question, and that the dog has viciously and without cause, attacked a human being when off the premises of the owner or keeper, ***the person shall be subject to the penalties set forth in subsection (3)(b) of Section 11 of this Act, and*** the court shall ***further*** order the[~~said~~] owner or keeper to henceforth keep ***the***[~~such~~] dog securely confined ***by chain leash or enclosed pen of sufficient strength to securely restrain the dog from being a public threat, or the court may order the dog to be destroyed.***

(b) The dog warden or duly appointed animal control officer shall act as an officer of the court for the enforcement of any orders of the court in their jurisdiction pertaining to subsection (5) of this section.

(6)[~~(5)~~] For his services in such proceedings, the peace officer shall be entitled to the same fees to which he is entitled for performing similar services in civil cases. In all proceedings under this section, such court shall place the costs upon either party as he may determine.

(7)[~~(6)~~] It shall be unlawful for the owner or keeper of any vicious dog after receiving ***an***[~~such~~] order ***under subsection (5) of this section***, to permit such dog to run at large, or to appear on the public highways unless in leash. Any such dog found running at large may be killed by any ***dog warden, animal control officer, or*** peace officer without liability for damages for such killings.

Section 6. KRS 258.245 is amended to read as follows:

(1) All licensed dogs are hereby declared to be personal property and subjects of larceny. Except as provided in KRS 258.235, it shall be unlawful for any person, except a peace officer, ***dog warden, or animal control officer*** to destroy, injure, or poison, or attempt to destroy, injure, or poison, any dog which bears a license tag for the current year.

(2) It shall be unlawful for any person to place any dog button or any poison of any description in any place, on his own premises or elsewhere where it may be easily found and eaten by dogs.

Section 7. KRS 258.265 is amended to read as follows:

(1) The owner or keeper of every dog shall at all times between the hours of sunset and sunrise of each day keep such dog:

(a) Confined within an inclosure from which it cannot escape, or

(b) Firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises on which it is secured, or

(c) Under the reasonable control of some person or, when engaged in lawful hunting accompanied by an owner or handler. A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if such a hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, such owner or handler shall not be deemed to be in violation of the provisions of this section as a result of such dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

(2) Any peace officer***, dog warden, or animal control officer*** may ***seize or*** destroy any dog found running at large between the hours of sunset and sunrise and unaccompanied and not under the control of owner or handler. However, a peace officer***, dog warden, or animal control officer*** shall be under a duty to make a fair and reasonable effort to determine whether any dog found at large between sunset and sunrise is a hound or other hunting dog which has become lost temporarily from a pack or wandered from immediate control of its owner, or handler, and if he is reasonably sure that the dog is a hunting dog, then he shall not destroy the dog, unless it is found in the act of pursuing, worrying, or wounding livestock or wounding, killing poultry or attacking human beings.

Section 8. KRS 258.305 is amended to read as follows:

Owners of licensed dogs which are killed by any peace officer, ***dog warden, or animal control officer,*** without justification under the provisions of this chapter, shall be recompensed for the value of such dog out of the livestock fund in the same manner as owners of livestock or poultry killed or injured by dogs are recompensed. The proceeding for appraisal of the value of the dog and payment of the claim shall conform to the procedures prescribed by KRS 258.275 and 258.285, except that no claim shall exceed one hundred dollars ($100).

Section 9. KRS 258.325 is amended to read as follows:

(1) If, in the report of the appraiser, the name of the owner of any dog or dogs having caused loss or damage to any livestock or poultry or person is definitely and conclusively shown or if written complaint is filed with the commissioner by any owner of livestock or poultry against any dog, stating that such dog has been seen pursuing or worrying livestock or poultry, and if such charge is proven by investigation on the part of the department, the commissioner may notify the owner or keeper of such dog to immediately destroy the same, whereupon it shall be unlawful and a violation of this chapter for such owner, or keeper to permit or cause such dog, while alive, to leave or to be removed from such premises. The destroying of such dogs shall not remove the liability of the owner for such damage done by his dog. Upon failure of such owner to comply with such order within a period of ten (10) days, any peace officer, ***dog warden, or animal control officer,*** upon notice from the department, shall destroy such dog wherever found. For such service***, a peace officer***~~[he]~~ shall be entitled to a fee of one dollar ($1.00) for each dog destroyed, to be paid out of the livestock fund upon presentation to the department of satisfactory proof that such dog has been destroyed by him.

(2) Any person who owns or harbors an unlicensed dog shall forfeit any right to be reimbursed out of the livestock fund for any damage to his livestock or poultry by dogs.

Section 10. KRS 258.345 is amended to read as follows:

(1) When the inhabitants of any city, or county, or any part thereof, have suffered an excessive amount of damage to livestock or poultry or domestic game birds by dogs, a petition may be presented to the commissioner, signed by twenty (20) or more of such inhabitants who are owners of livestock or poultry, alleging such excessive damage and requesting that a quarantine be placed on all dogs within the limits of such city, or county, or such part thereof. Upon receipt of such petition, the department may, through its authorized agents, have an investigation made of the facts alleged therein, and, if convinced that conditions in such city, county, or such designated area demand such stringent measures, may establish a dog quarantine therein.

(2) When such a quarantine is established, at least ten (10) notices thereof shall be posted throughout the area affected thereby, and notice thereof shall also be published pursuant to KRS chapter 424, in the city, or county.

(3) It shall be unlawful for any person, residing in the area affected by such quarantine, to permit a dog owned or harbored by him to run at large in such quarantined area, or to leave the premises where it is kept, unless accompanied by and under the control of the owner or handler.

(4) Any peace officer***, dog warden, or animal control officer*** may destroy any dog running at large in a quarantined area, in violation of such quarantine, without any liability for such destruction.

Section 11. KRS 258.990 is amended to read as follows:

(1) Any person who violates KRS 258.015, 258.035, 258.055, 258.065 or 258.085, shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation shall constitute a separate offense.

(2) The owner of any dog not vaccinated according to the provisions of this chapter shall be liable to pay all damages for personal injuries resulting from the bite of such dog, if rabid.

(3) ***(a)*** Any person violating or failing or refusing to comply with KRS 258.095 to 258.365 and subsections (3) and (4) of this section***, except subsection (5)(a) of Section 5 of this Act,*** shall, upon conviction, be fined not less than five dollars ($5) and not more than one hundred dollars ($100) or be imprisoned for not less than five (5) nor more than sixty (60) days or both so fined and imprisoned.

(b) Any person violating subsection (5)(a) of Section 5 of this Act shall be punished by a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200), or by imprisonment in the county jail for not less than ten (10) nor more than sixty (60) days, or by both fine and imprisonment.

(4) All fines collected under subsection (3) of this section shall after costs and commissions have been deducted, be paid to the department to be credited to the livestock fund.

Section 12. KRS 258.135 is amended to read as follows:

(1) On or before July 1, 1954, and on or before July 1 of each year thereafter, the owner of any dog six (6) months old or over shall apply to the dog warden of the county in which he resides for a license for each dog owned or kept by him. The application shall be accompanied by a license fee of one dollar and fifty cents ($1.50) for each dog. Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955. Dog wardens shall be agents of the Commonwealth in the collection of the license fees provided for herein, unless the department determines, with the approval of the Governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the fee, dog wardens shall be allowed to retain the sum of twenty-five cents ($0.25) for each license. The balance of the license fee collected shall be paid to the department on or before the fifteenth day of each next succeeding

month and shall be credited to the livestock fund. If the committee finds it to be in the interest of maximum enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in enforcement, the department may allow these portions of the license fee to be so retained by the counties.

(2) Any county may choose to issue ***additional licenses***~~[the license]~~ in conjunction with effective dates of a valid rabies vaccination, provided the dog shall be licensed each fiscal year.

The Committee Substitute to **HB 626** is as follows:

AN ACT relating to animal control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and subsections (3) and (4) of KRS 258.990, unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Committee" means the advisory committee created by KRS 258.115;

(4) "Dog" means any member of the canine family, six (6) months of age or over;

(5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

(6) "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine and confined and domesticated hares and rabbits;

(7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;

(8) "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;

(9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions***;***

(10) "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;

(11) "Vicious dog" means any individual dog declared by a court to be a vicious dog; and

(12) "Animal control officer" means an individual employed by a city, county, urban-county government, or charter county government who enforces the provisions of this chapter and local dog control ordinances.

Section 2. KRS 258.195 is amended to read as follows:

(1) On or before July 1, 1954, the fiscal court of each county shall employ a dog warden. On or before July 1, 1955, the fiscal court of each county shall establish and maintain a dog pound as a means of facilitating and administration of this chapter. In counties of small population, arrangements may be made for the joint establishment and operation of dog pounds by two (2) or more counties on a mutually satisfactory basis. Instead of setting up pounds, one (1) or more counties acting jointly may take advantage of the facilities of suitable pounds already in operation by counties, cities, humane societies, or other organizations or individuals. Fiscal courts may adopt and enforce regulations relative to pound standards, the naming of persons who shall serve as dog wardens, providing for the fixing of salaries of wardens and assistants, and such other matters that may be incidental to efficient and proper operation of the dog pound plan.

(2) As a means of providing a portion of the funds for setting up and operating dog pounds, fifty cents ($0.50) out of the one dollar and fifty cents ($1.50) paid for every dog license sold in each county shall be credited by the department to a special enforcement fund to be refunded to the respective counties on a pro rata basis determined by the licenses sold in each county, and shall be used in meeting expenses of the dog warden and the dog pound plan.

(3) Dog wardens may be designated as agents of the department for purposes of appraising livestock losses pursuant to KRS 258.275.

(4) Cities, counties, urban-county governments, or charter county governments may employ animal control officers for the enforcement of KRS Chapter 258 and local dog control ordinances within their corporate limits. Cities, urban county governments, or charter county governments may enter into agreements with the counties for the enforcement of the county's ordinances. The agreement shall include, but shall not necessarily be limited to, setting out the jurisdiction and the duties of the officer or warden respective to the agreement.

(5) Dog wardens and animal control officers shall have the authority to issue uniform citations only for the enforcement of the provisions of this chapter or dog control ordinances in their respective jurisdictions.

Section 3. KRS 258.215 is amended to read as follows:

(1) Peace officers***, dog wardens, or animal control officers*** shall seize and impound any dog which does not bear a proper license tag or other legible identification which is found running at large, but if an officer, ***dog warden, or animal control officer,*** after diligent effort to do so, should fail to seize such a dog, it shall then become his duty to destroy the dog by any reasonable and humane means. Any such dog which an officer***, dog warden, or animal control officer*** seizes shall be impounded for seven (7) days, and if not claimed by the owner or sold in accordance with other provisions of this chapter, then such dog may be destroyed in some humane manner.

(2) A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if such hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, such owner or handler shall not be deemed to be in violation of the provisions of this section as a result of such dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

Section 4. KRS 258.225 is amended to read as follows:

(1) It shall be unlawful for any peace officer***, dog warden, or animal control officer*** to refuse to perform his duties under the provisions of this chapter, or to refuse to assist in the enforcement of this chapter upon request of the Commissioner.

(2) It shall be unlawful for any person to interfere with any officer***, dog warden, or animal control officer,*** or agent in the enforcement of this chapter.

Section 5. KRS 258.235 is amended to read as follows:

(1) Any person may kill ***or seize*** any dog which he sees in the act of pursuing[~~, worrying,~~] or wounding any livestock, or wounding or killing poultry, or attacking human beings, whether or not such dog bears the license tag required by the provisions of this chapter. There shall be no liability on such person in damages or otherwise for[~~ such~~] killing***, injuring from an attempt to kill, or for seizing the dog***.

(2) Any unlicensed dog, not accompanied by its owner or keeper, that enters any field or inclosure where livestock or poultry are confined shall constitute a private nuisance and the owner or tenant of such field ***or inclosure***, or his agent or servant, may kill ***or seize*** such dog while it is in the field or inclosure, without liability or responsibility of any nature for[~~ such~~] killing***, injuring from an attempt to kill, or for seizing the dog***.

(3) ***Any dog deemed in violation of this section, and seized by a property owner or his agent shall be surrendered over to the dog warden, animal control officer, or a peace officer for impoundment as stipulated in Section 3 of this Act.***

(4) Subsection (2) of this section shall not apply to licensed dogs, when accompanied by their owner or handler, unless caught in the act of[~~ worrying,~~] wounding[~~,~~] or killing any livestock, or wounding or killing poultry, or attacking human beings.

(5)[~~(4)~~] ***(a)*** Any person who has been attacked by a dog, or anyone for such person, may make a complaint before the district court, charging the owner or keeper of such dog with harboring a vicious dog. A copy of such complaint shall be served upon the person so charged in the same manner and subject to the laws regulating the service of summons in civil actions directing him to appear for a hearing of such complaint at a time fixed therein. If such person fails to appear at the time fixed, or if upon a hearing of the parties and their witnesses, the court finds the person so charged is the owner or keeper of the dog in question, and that the dog has viciously and without cause, attacked a human being when off the premises of the owner or keeper, ***the person shall be subject to the penalties set forth in subsection (3)(b) of Section 11 of this Act, and*** the court shall ***further*** order the[~~ said~~] owner or keeper to henceforth keep ***the***[~~such~~] dog securely confined ***by chain leash or enclosed pen of sufficient strength to securely restrain the dog from being a public threat, or the court may order the dog to be destroyed.***

(b) The dog warden or duly appointed animal control officer shall act as an officer of the court for the enforcement of any orders of the court in their jurisdiction pertaining to subsection (5) of this section.

(6)[~~(5)~~] For his services in such proceedings, the peace officer shall be entitled to the same fees to which he is entitled for performing similar services in civil cases. In all proceedings under this section, such court shall place the costs upon either party as he may determine.

(7)[~~(6)~~] It shall be unlawful for the owner or keeper of any vicious dog after receiving ***an***[~~such~~] order ***under subsection (5) of this section***, to permit such dog to run at large, or to appear on the public highways unless in leash. Any such dog found running at large may be killed by any ***dog warden, animal control officer, or*** peace officer without liability for damages for such killings.

Section 6. KRS 258.245 is amended to read as follows:

(1) All licensed dogs are hereby declared to be personal property and subjects of larceny. Except as provided in KRS 258.235, it shall be unlawful for any person, except a peace officer, ***dog warden, or animal control officer*** to destroy, injure, or poison, or attempt to destroy, injure, or poison, any dog which bears a license tag for the current year.

(2) It shall be unlawful for any person to place any dog button or any poison of any description in any place, on his own premises or elsewhere where it may be easily found and eaten by dogs.

Section 7. KRS 258.265 is amended to read as follows:

(1) The owner or keeper of every dog shall at all times between the hours of sunset and sunrise of each day keep such dog:

(a) Confined within an inclosure from which it cannot escape, or

(b) Firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises on which it is secured, or

(c) Under the reasonable control of some person or, when engaged in lawful hunting accompanied by an owner or handler. A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if such a hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, such owner or handler shall not be deemed to be in violation of the provisions of this section as a result of such dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

(2) Any peace officer***, dog warden, or animal control officer*** may ***seize or*** destroy any dog found running at large between the hours of sunset and sunrise and unaccompanied and not under the control of owner or handler. However, a peace officer***, dog warden, or animal control officer*** shall be under a duty to make a fair and reasonable effort to determine whether any dog found at large between sunset and sunrise is a hound or other hunting dog which has become lost temporarily from a pack or wandered from immediate control of its owner, or handler, and if he is reasonably sure that the dog is a hunting dog, then he shall not destroy the dog, unless it is found in the act of pursuing[~~, worrying,~~] or wounding livestock or wounding, killing poultry or attacking human beings.

Section 8. KRS 258.305 is amended to read as follows:

Owners of licensed dogs which are killed by any peace officer, ***dog warden, or animal control officer,*** without justification under the provisions of this chapter, shall be recompensed for the value of such dog out of the livestock fund in the same manner as owners of livestock or poultry killed or injured by dogs are recompensed. The proceeding for appraisal of the value of the dog and payment of the claim shall conform to the procedures prescribed by KRS 258.275 and 258.285, except that no claim shall exceed one hundred dollars ($100).

Section 9. KRS 258.325 is amended to read as follows:

(1) If, in the report of the appraiser, the name of the owner of any dog or dogs having caused loss or damage to any livestock or poultry or person is definitely and conclusively shown or if written complaint is filed with the commissioner by any owner of livestock or poultry against any dog, stating that such dog has been seen pursuing[~~ or worrying~~] livestock or poultry, and if such charge is proven by investigation on the part of the department, the commissioner may notify the owner or keeper of such dog to immediately destroy the same, whereupon it shall be unlawful and a violation of this chapter for such owner, or keeper to permit or cause such dog, while alive, to leave or to be removed from such premises. The destroying of such dogs shall not remove the liability of the owner for such damage done by his dog. Upon failure of such owner to comply with such order within a period of ten (10) days, any peace officer, ***dog warden, or animal control officer,*** upon notice from the department, shall destroy such dog wherever found. For such service***, a peace officer***[~~he~~] shall be entitled to a fee of one dollar ($1.00) for each dog destroyed, to be paid out of the livestock fund upon presentation to the department of satisfactory proof that such dog has been destroyed by him.

(2) Any person who owns or harbors an unlicensed dog shall forfeit any right to be reimbursed out of the livestock fund for any damage to his livestock or poultry by dogs.

Section 10. KRS 258.345 is amended to read as follows:

(1) When the inhabitants of any city, or county, or any part thereof, have suffered an excessive amount of damage to livestock or poultry or domestic game birds by dogs, a petition may be presented to the commissioner, signed by twenty (20) or more of such inhabitants who are owners of livestock or poultry, alleging such excessive damage and requesting that a quarantine be placed on all dogs within the limits of such city, or county, or such part thereof. Upon receipt of such petition, the department may, through its authorized agents, have an investigation made of the facts alleged therein, and, if convinced that conditions in such city, county, or such designated area demand such stringent measures, may establish a dog quarantine therein.

(2) When such a quarantine is established, at least ten (10) notices thereof shall be posted throughout the area affected thereby, and notice thereof shall also be published pursuant to KRS chapter 424, in the city, or county.

(3) It shall be unlawful for any person, residing in the area affected by such quarantine, to permit a dog owned or harbored by him to run at large in such quarantined area, or to leave the premises where it is kept, unless accompanied by and under the control of the owner or handler. ***A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under control of its owner or handler while engaged in or returning from hunting, and if that hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its***

owner or handler, the owner or handler shall not be deemed to be in violation of the provisions of this section as a result of the dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

(4) Any peace officer***, dog warden, or animal control officer*** may destroy any dog running at large in a quarantined area, ***not accompanied by or under control of its owner, and*** in violation of such quarantine, without any liability for such destruction.

Section 11. KRS 258.990 is amended to read as follows:

(1) Any person who violates KRS 258.015, 258.035, 258.055, 258.065 or 258.085, shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation shall constitute a separate offense.

(2) The owner of any dog not vaccinated according to the provisions of this chapter shall be liable to pay all damages for personal injuries resulting from the bite of such dog, if rabid.

(3) ***(a)*** Any person violating or failing or refusing to comply with KRS 258.095 to 258.365 and subsections (3) and (4) of this section***, except subsection (5)(a) of Section 5 of this Act,*** shall, upon conviction, be fined not less than five dollars ($5) and not more than one hundred dollars ($100) or be imprisoned for not less than five (5) nor more than sixty (60) days or both so fined and imprisoned.

(b) Any person violating subsection (5)(a) of Section 5 of this Act shall be punished by a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200), or by imprisonment in the county jail for not less than ten (10) nor more than sixty (60) days, or by both fine and imprisonment.

(4) All fines collected under subsection (3) of this section shall after costs and commissions have been deducted, be paid to the department to be credited to the livestock fund.

Section 12. KRS 258.135 is amended to read as follows:

(1) On or before July 1, 1954, and on or before July 1 of each year thereafter, the owner of any dog six (6) months old or over shall apply to the dog warden of the county in which he resides for a license for each dog owned or kept by him. The application shall be accompanied by a license fee of one dollar and fifty cents ($1.50) for each dog. Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955. Dog wardens shall be agents of the Commonwealth in the collection of the license fees provided for herein, unless the department determines, with the approval of the Governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the fee, dog wardens shall be allowed to retain the sum of twenty-five cents ($0.25) for each license. The balance of the license fee collected shall be paid to the department on or before the fifteenth day of each next succeeding month and shall be credited to the livestock fund. If the committee finds it to be in the interest of maximum enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in enforcement, the department may allow these portions of the license fee to be so retained by the counties.

(2) Any county may choose to issue ***additional licenses***[~~the license~~] in conjunction with effective dates of a valid rabies vaccination, provided the dog shall be licensed each fiscal year.

HB 699, AN ACT relating to dogs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) (a) The maintenance and operation of a noncommercial kennel upon any lot or other premises occupied by the owner or tenant as a dwelling house does not constitute a prohibited use of land for residential purposes in violation of the zoning regulations of any city or county.

(b) For purposes of this chapter and KRS Chapter 258, a noncommercial kennel means a kennel at, in, or adjoining a private residence where hunting or other dogs are kept for the hobby of the householder who uses them to hunt, to practice tracking, to exhibit in dog shows or field or obedience trials, or to guard or protect the householder's property.

(2) The occasional raising of a litter of puppies at the kennel and occasional sale of pups by the keeper of a noncommercial kennel does not change the character of residential property.

Section 2. KRS 258.165 is amended to read as follows:

(1) Any person who keeps or operates a kennel may, in lieu of the license for each dog required by KRS 258.135, apply to the dog warden for a kennel license entitling him to keep or operate a kennel. ***The***[~~Such~~] application shall be accompanied by a license fee of ten dollars ($10) for each license to keep ten (10) dogs or less and fifteen dollars ($15) for each license to keep more than ten (10) dogs. ***The***[~~Such~~] license fees shall be collected, paid to the department, and credited to the livestock fund in the same manner as the regular dog license fees.

(2) A kennel license shall be issued on a form prescribed and supplied by the department.

(3) Upon the issuance of a kennel license, the person who keeps or operates the kennel shall be furnished a number of tags prescribed and supplied by the department equal to the number of dogs authorized to be kept in the kennel.

(4) The licensee of a kennel shall keep a tag attached to a collar on each dog kept by him at all times, and ***the***~~[such]~~ tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel.

(5) No county or municipality shall enact any ordinance that uses an arbitrary number to limit how many dogs can be owned and kept by a noncommercial kennel. No arbitrary number of dogs shall be used to designate a noncommercial kennel as a commercial kennel. Any local requirements currently in effect as of the effective date of this Act that arbitrarily limit the number of dogs that may be owned and kept by a noncommercial kennel shall be void. Nothing in this section shall be construed to prohibit a county or municipality from enacting reasonable regulations governing the health, safety, or noise standards of noncommercial kennels. This section shall not be construed to preempt or prohibit private developers or landowners from establishing and enforcing private covenants or other private land use regulations in any zoning area or subdivision of any municipality, county, or other political subdivision.

SECTION 3. A NEW SECTION OF KRS CHAPTER 258.095 TO 258.365 IS CREATED TO READ AS FOLLOWS:

No county or municipality shall create any requirement that declares a specific breed of dog to be a vicious or dangerous dog. The county or municipality may define the term vicious or dangerous. Any designation of a dog as vicious or dangerous shall be based on the dog's actions. Any local requirements currently in effect as of the effective date of this Act that declare a specific breed of dog as vicious or dangerous shall be void.

HB 709, AN ACT relating to swine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBCHAPTER 51 OF KRS CHAPTER 224 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 29 of this Act, unless the context provides otherwise:

(1) "Activity" means, when used in conjunction with facility, any Kentucky Pollutant Discharge Elimination System point source, or any other activity, including land or appurtenances thereto, that is subject to regulation under the Kentucky Pollutant Discharge Elimination System program.

(2) "Cabinet" means the Natural Resources and Environmental Protection Cabinet.

(3) "Direct discharge" means the discharge of a pollutant into waters of the Commonwealth.

(4) "Discharge" or "discharge of a pollutant" means the addition of a pollutant or combination of pollutants to waters of the Commonwealth from any point source, including but not limited to:

(a) Additions of pollutants into waters of the Commonwealth from surface run-off which is collected or channeled by human effort;

(b) Discharges through pipes, sewers, or other conveyances whether publicly or privately owned which do not lead to a treatment works; and

(c) Discharges through pipes, sewers, or other conveyances leading into privately owned treatment works.

(5) "Division" means the Kentucky Division of Water in the Natural Resources and Environmental Protection Cabinet.

(6) "Engineer" or "professional engineer" means a person registered to practice engineering in accordance with KRS Chapter 322.

(7) "Facility or equipment" means a building, structure, process or production equipment, machinery, or a swine waste lagoon that:

(a) Forms a permanent part of a swine feeding operation; and

(b) Will be used in the operation of a swine feeding operation.

(8) "Filter strip" means a strip or area of vegetation for removing sediment, organic material, and other pollutants from runoff and wastewater.

(9) "Injection" means a type of land application in which the waste is placed directly beneath the land surface.

(10) "KAR" means Kentucky Administrative Regulations.

(11) "KRS" means Kentucky Revised Statutes.

(12) "Land application" means the uniform placement of animal waste on or in the soil by:

(a) Spraying or spreading on the surface;

(b) Incorporation into the soil; or

(c) Injection directly beneath the surface.

(13) "Minimum design volume" means the treatment volume in the lagoon necessary to maintain an anaerobic condition in the lagoon.

(14) "Natural Resources Conservation Service" or "NRCS" means the organization created in accordance with 7 USC 6962 in the United States Department of Agriculture.

(15) "Nutrient management plan" means the plan for an individual swine feeding operation developed for the purpose of recycling nutrients from animal waste onto cropland or pasture in a manner that does not cause water pollution.

(16) "Outstanding resource waters" means waters designated as outstanding resource waters under the:

(a) Kentucky Wild Rivers Act, KRS 146.200 to 146.360;

(b) Federal Wild and Scenic Rivers Act, 16 USC 1271 et seq.;

(c) Kentucky Nature Preserves Act, KRS 146.410 to 146.530; and

(d) Endangered Species Act of 1973, as amended, 16 USC 1531 et seq.

(17) "Operate" means an act relating to the construction, operation, or maintenance of any facility.

(18) "Operator" means a person involved in the operation of a facility or activity.

(19) "Owner" means a person who possesses the right to develop or operate a facility or activity.

(20) "Permit" means a Swine Waste Management Permit or a document issued by the cabinet that authorizes the permittee to construct or operate a facility.

(21) "Public water" means a water system that provides water for human consumption to the public, if the system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year, and includes:

(a) Collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system; and

(b) Collection and pretreatment storage facilities not under the control of the operator of the water system that are used primarily in connection with the water system.

(22) "Residual solids" means the accumulated solid waste in the lower portion of a lagoon that contains greater than two percent (2%) total solids by dry weight analysis.

(23) "Sinkhole" means a naturally occurring topographic depression in a karst area:

(a) The drainage of which is subterranean and serves as a recharge source for groundwater; and

(b) Formed by the collapse of a conduit or the solution of bedrock.

(24) "Site" means the land where a swine feeding operation or activity is physically located or conducted, including adjacent land used in connection with the swine feeding operation or activity.

(25) "Source" means a building, structure, facility, or installation from which there is or may be a discharge of pollutants.

(26) "Supernatant" means the water that accumulates in the upper portion of a lagoon and contains no greater than two percent (2%) total solids by dry weight analysis.

(27) "Swine feeding operation" means an operation that:

(a) Confines swine units; and

(b) Is not a concentrated animal feeding operation.

(28) "Swine units" means the units of measurement used to determine the applicability of Sections 1 to 29 of this Act.

(29) "Swine waste" means the waste from a swine feeding operation, including manure, bedding, soil, wasted water and feed, and flushing water from swine confinement.

(30) "Swine waste lagoon" means a structure constructed for the purpose of collecting, storing, and treating the waste from a swine feeding operation.

(31) "Swine Waste Management Permit" means the permit that authorizes the:

(a) Construction or operation of one (1) or more swine waste lagoons, and all related appurtenances; and

(b) Implementation of a nutrient management plan at the swine feeding operation.

(32) "Twenty-five (25) year, twenty-four (24) hour rainfall event" means a twenty-four (24) hour rainfall event with a probable recurrence interval of once in twenty-five (25) years.

(33) "Variance" means a mechanism or provision that allows a modification or waiver of specified requirements.

(34) "Wellhead protection area" means:

(a) The surface and subsurface area surrounding a water well, well field, or spring, supplying a public water system, through which pollutants are reasonably likely to move toward and reach the water well, well field, or spring; or

(b) An area defined as a wellhead protection area in a county water supply plan.

SECTION 2. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 29 of this Act shall apply to a swine feeding operation that:

(a) Is established after the effective date of this Act, and has a total number of swine units of more than one thousand (1,000); or

(b) Exists upon the effective date of this Act and, after the effective date of this Act, increases the total number of swine units to more than two thousand (2,000) swine units.

(2) The provisions of Sections 1 to 29 of this Act shall not apply to a swine feeding operation that:

(a) Exists upon the effective date of this Act;

(b) Has more than two thousand (2,000) swine units; and

(c) After the effective date of this Act, does not increase the total number of swine units that it had upon the effective date of this Act.

(3) The provisions of Sections 1 to 29 of this Act shall not apply to a swine feeding operation that:

(a) Exists upon the effective date of this Act;

(b) Has two thousand (2,000) or fewer swine units; and

(c) After the effective date of this Act, increases the total number of swine units to two thousand (2,000) or fewer swine units.

SECTION 3. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Two (2) or more swine feeding operations shall be related if they share a common:

(a) Swine waste lagoon; or

(b) Land application area.

(2) For related swine feeding operations, the number of swine units shall be the sum total of the number of swine units of the related operations.

SECTION 4. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Swine Units shall be determined according to the following formula:

(1) Swine units = (0.1xNn) + (0.4xNf) + (0.45xNb) + (3.55xNff) + (0.75xNffe) + (0.41xNfw) + (0.35xNwf).

(2) (a) Nn = Number of nursery pigs;

(b) Nf = Number of finishing pigs;

(c) Nb = Number of boars;

(d) Nff = Number of sows, farrow to finish;

(e) Nffe = Number of sows, farrow to feeder;

(f) Nfw = Number of sows, farrow to wean; and

(g) Nwf = Number of pigs, wean to finish.

SECTION 5. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A facility, swine waste lagoon, or land application area shall not be located in a:

(a) State or national park;

(b) State or national forest;

(c) Nature preserve;

(d) Wellhead protection area approved by the cabinet;

(e) One hundred (100) year flood plain, unless permitted by the cabinet;

(f) Area determined to be a jurisdictional wetland by NRCS; or

(g) Sinkhole or other enclosed depression where subsidence is evident.

(2) All land applications shall be made on land with:

(a) An established vegetative cover and a slope of eighteen percent (18%) or less; or

(b) No established vegetative cover and a slope of twelve percent (12%) or less.

SECTION 6. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The minimum setback for the items or activities designated in this section shall be measured from the nearest corner of the setback feature or legal property line to the nearest corner of the facility or swine waste lagoon, whichever is closer. An existing setback feature shall be a setback feature that existed on the date an application was postmarked. The minimum setback shall be as follows:

(1) For a swine facility and waste handling system:

(a) A dwelling that is not owned by an applicant, church, school, school yard, business, park, or other structure to which the general public has access: fifteen hundred (1,500) feet;

(b) Incorporated city limit: three thousand (3,000) feet;

(c) Lake, river, blue-line stream: one hundred fifty (150) feet;

(d) Sinkhole opening: thirty (30) feet;

(e) Water well that is not owned by the applicant: three hundred (300) feet;

(f) Property line: one hundred fifty (150) feet;

(g) Outstanding resource waters measured along gradient: one (1) mile; and

(h) Downstream public water supply surface water intake measured along gradient: five (5) miles;

(2) For land application of swine waste by injection method:

(a) A dwelling that is not owned by an applicant, church, school, school yard, business, park, or other structure to which the general public has access: three hundred (300) feet;

(b) Incorporated city limit: one thousand (1,000) feet;

(c) Lake, river, blue-line stream: fifty (50) feet;

(d) Sinkhole opening: thirty (30) feet;

(e) Water well that is not owned by the applicant: one hundred fifty (150) feet;

(f) Property line: twenty-five (25) feet;

(g) Outstanding resource waters measured along gradient: seven hundred fifty (750) feet; and

(h) Downstream public water supply surface water intake measured along gradient: one (1) mile; and

(3) For land application of swine waste by method other than injection:

(a) A dwelling that is not owned by an applicant, church, school, school yard, business, park, or other structure to which the general public has access: five hundred (500) feet;

(b) Incorporated city limit: fifteen hundred (1,500) feet;

(c) Lake, river, blue-line stream: one hundred (100) feet;

(d) Sinkhole opening: thirty (30) feet;

(e) Water well that is not owned by the applicant: one hundred fifty (150) feet;

(f) Property line: fifty (50) feet;

(g) Outstanding resource waters, measured along gradient: fifteen hundred (1,500) feet; and

(h) Downstream public water supply surface water intake measured along gradient: one (1) mile.

SECTION 7. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall grant a variance from the setback requirements established by Section 6 of this Act as follows:

(1) An owner or operator shall be granted a waiver of the setback requirements for the land application of swine waste that relate to a dwelling, church, business, or property line if the owner or operator has obtained and submitted to the cabinet a notarized waiver from the adjoining property owner.

(2) An owner or operator shall be granted a waiver of the setback requirements for a facility if the owner or operator has obtained and submitted to the cabinet a certified deed of easement from the adjoining property owner.

SECTION 8. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) (a) An applicant shall obtain a baseline soil analysis of each field on which swine waste will be applied; and

(b) The baseline soil analysis for each field shall contain the levels of extractable phosphorus, extractable potassium, and pH.

(2) A permittee shall annually obtain soil analyses from each field used for swine waste application to measure extractable phosphorus, extractable potassium, and pH.

(3) (a) A permittee shall annually obtain a laboratory analysis of the nutrient content of the swine waste to be applied to land as provided in the permittee's nutrient management plan;

(b) A permittee with a lagoon shall obtain an analysis of the supernatant, or the supernatant and residual solids;

(c) An analysis shall be made at least sixty (60) days before initial application and on an annual basis thereafter;

(d) Each swine waste sample shall be analyzed for total nitrogen, phosphorus, potassium, pH, and total solids; and

(e) Annual analyses shall be averaged together to develop a farm history for nutrient content of the waste and to provide a basis for land application rates.

(4) (a) A swine feeding operation shall maintain records of all swine waste applied to land based on the farm's nutrient management guideline;

(b) The records shall be entered on a form approved by the cabinet; and

(c) The records shall contain soil and waste analytical results and, for each year of land application, the:

1. Farm or field number and acreage;

2. Date of the application of swine waste or commercial fertilizer;

3. Agronomic crop;

4. Application method; and

5. Quantity applied.

(5) (a) A permittee shall maintain records of soil and swine waste analyses for a minimum of five (5) years, unless the operation has had its permit for less than five (5) years;

(b) If a swine feeding operation has had its permit for less than five (5) years, all records of soil and swine waste analyses shall be maintained; and

(c) Records of soil and swine waste analyses shall be made available to the cabinet upon request.

SECTION 9. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

A swine waste lagoon shall meet the requirements of this section and Section 13 of this Act. It shall:

(1) Have a maximum single-structure surface area of five (5) acres;

(2) Be able to hold a maximum design volume that is the sum of the volumes representing:

(a) At least one (1) year's production of residual solids;

(b) The minimum design volume;

(c) At least one hundred eighty (180) days of swine waste production;

(d) Twelve (12) inches of excess precipitation; and

(e) Precipitation from one (1) twenty-five (25) year, twenty-four (24) hour rainfall event;

(3) Have an emergency spillway above the maximum design volume that:

(a) Has one (1) foot of freeboard above the spillway;

(b) Is designed to carry the flow from one (1) 100-year, twenty-four (24) hour storm event; and

(c) Is at least ten (10) feet wide at the crest;

(4) Have a monitoring staff gauge that:

(a) Is clearly marked in a minimum of two-tenths (2/10) foot increments; and

(b) Shows the elevations of the:

1. Minimum and maximum design volumes; and

2. Crest of the spillway;

(5) Be designed by a professional engineer according to NRCS or American Society of Agriculture Engineers standards;

(6) Be constructed so that discharge from the inlet pipes to the swine waste lagoon will not erode the berm or the sides of the swine waste lagoon;

(7) Have a continuous berm that:

(a) Is at least two (2) feet above grade to prevent surface water from entering the lagoon; and

(b) Has a vegetative cover;

(8) Have been permitted in accordance with KRS 151.250 before construction begins, if the lagoon:

(a) Is more than twenty-five (25) feet in height, measured from the downstream toe of the dam to the crest of the dam;

(b) Impounds more than fifty (50) acre-feet at the crest of the dam; or

(c) Is classified as a high-hazard water-impounding structure; and

(9) Have a:

(a) Compacted soil liner that is at least twelve (12) inches thick and:

1. Is deposited and compacted in at least two (2) six (6) inch lifts; or

2. Has a maximum permeability of 1×10^{-7} *cm/sec; or*

(b) Synthetic liner that provides protection equivalent to the protection obtained by the liner specified by paragraph (a) of this subsection.

SECTION 10. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) (a) After construction of the lagoon and before beginning operation, the as-built construction of the lagoon shall be certified by a professional engineer or the NRCS as meeting the requirements of Section 9 of this Act and shall be submitted to the cabinet; and

(b) Within seven (7) days of receipt of the certification, the cabinet shall review the certification and:

1. Notify the permittee in writing whether the cabinet has approved the certification; or

2. Notify the permittee in writing of the reasons why the cabinet has not approved the certification;

(2) Before introducing swine waste, the lagoon shall be filled with water to at least one-half (½) of minimum design volume, and after the initial filling of the lagoon the lagoon level shall be maintained above the minimum design volume by adding water;

(3) Only swine waste and water required by subsection (2) of Section 9 of this Act shall be discharged or disposed of in the swine waste lagoon;

(4) The contents of the lagoon shall be agitated during the removal of residual solids; and

(5) The swine waste lagoon shall be inspected periodically by the owner or operator, the vegetative cover shall be kept mowed, and the embankment and berm shall be kept free of shrubs, trees, holes, and animal burrows.

SECTION 11. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A monitoring staff gauge shall be read monthly by the owner or operator;

(2) A record of the readings shall be kept, including the:

(a) Date and time of the reading; and

(b) Individual who made the reading;

(3) An owner or operator shall immediately notify the cabinet and submit to the cabinet the past twelve (12) months of monitoring records within ten (10) days of a:

(a) Monitoring staff gauge reading decline by more than one-half (1/2) foot over any four (4) or fewer consecutive months; or

(b) Reading that is more than one (1) foot below the predicted reading which is estimated from current climatic and facility operation data;

(4) (a) Within forty-five (45) days of notifying the cabinet, an owner or operator shall submit to the cabinet a plan to determine if the lagoon liner has failed and, if it has failed, a description of proposed repairs; and

(b) The plan shall include an analysis of past climatic and operational data to determine whether excess leakage is a probable cause for the declining monitoring staff gauge readings and, if the liner is not performing as designed, the plan shall specify methods for further investigation and repair of the lagoon liner;

(5) (a) The cabinet shall review the plan and determine if changes are needed in the plan;

(b) If the cabinet approves a plan to repair a lagoon, an owner or operator shall comply with the cabinet's approved plan to repair the lagoon within one hundred eighty (180) days after cabinet approval, or sooner if

required by the cabinet; and

(6) Before restarting the lagoon operation, the owner or operator shall:

  (a) Have a professional engineer or the NRCS certify that the repairs have been made in accordance with the approved plan; and

  (b) Notify the cabinet that repairs have been completed.

SECTION 12. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) (a) Prior to filing an application for a new swine feeding operation, or for the expansion of an existing swine feeding operation that is not exempted under subsection (3) of Section 2 of this Act, an owner or operator shall send a written notice of the owner or operator's intent to build or expand a swine feeding operation;

  (b) The notice shall be sent by certified mail to all adjoining property owners, and to all property owners located across a public road, street, or highway from the swine feeding operation;

  (c) The notice shall be sent to the address on record at the property valuation administrator's office in the county in which the land is located; and

  (d) The notice shall include:

    1. The name and address of the person intending to construct or expand a swine feeding operation;

    2. The number of swine units to be confined; and

    3. Information informing the property owners that they may submit written comments to the cabinet.

(2) The owner and operator of a swine feeding operation shall submit to the cabinet an application for a swine waste management permit on an application form approved by the cabinet.

(3) The cabinet application form shall require facility information relating to the location, owner, and operator of the swine feeding operation.

(4) An application shall include two (2) copies of the following:

  (a) A completed permit application form;

  (b) A United States Geological Survey seven and one-half (7½) minute topographic quadrangle map with the swine feeding operation clearly marked;

  (c) A site map with a scale of no less than 1"= 660', including a north arrow and legend, showing the:

    1. Swine waste lagoon location;

    2. Location of buildings on the site;

    3. Location of setback features specified in Section 6 of this Act and their setbacks or waivers, if applicable;

    4. Field number and acres of land application areas;

    5. Filter strips if applicable; and

    6. Roads;

  (d) A set of plans and specifications describing the proposed swine waste lagoon that has been prepared, stamped, signed, and dated by a professional engineer or the NRCS;

  (e) A certified copy of a legal deed of easement or a notarized waiver, if required by Section 7 of this Act;

  (f) An operation-specific nutrient management plan that meets the requirements of Section 16 of this Act;

  (g) For each initial field that will receive swine waste, the results of the baseline soil analyses required by Section 8 of this Act; and

  (h) If applicable, documentation that the owner or operator of a new or expanding swine feeding operation has attempted to notify all adjoining property owners or all property owners located across a public road, street, or highway from the swine feeding operation, of the owner or operator's intent to build or expand a swine feeding operation.

(5) The permit application shall be signed and certified by the owner or operator of the swine feeding operation.

(6) If an applicant becomes aware that he or she has failed to submit a relevant fact in a permit application, or submitted incorrect information in a permit application, he or she shall promptly submit to the cabinet the fact or information.

SECTION 13. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The following types of swine waste lagoons shall be acceptable:

(a) Anaerobic and aerobic lagoons;

(b) Pits that are containment structures below grade and part of a building or outside of a building;

(c) Liquid-solid separation systems that utilize gravity, screens, or pressure to separate solids from liquids;

(d) A type of swine waste lagoon that has been certified by NRCS or a professional engineer; or

(e) An in-ground or above-ground storage system that:

1. Is designed and constructed in compliance with American Society of Agriculture Engineers EP39 (Manure Storages) or other guidelines accepted by professional engineers;

2. Is designed with covers; and

3. Maintains at least one hundred twenty (120) days storage.

(2) The cabinet shall grant a variance for a swine feeding operation that utilizes an experimental or alternative practice or technology for the treatment of swine waste that meets the requirements established by Section 14 of this Act.

SECTION 14. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall grant a variance to a swine feeding operation that utilizes an experimental or alternative practice or technology for the treatment of swine waste if:

(a) The owner or operator submits a request for the variance that explains the alternative or experimental practice or technology, and documents the manner in which the alternative or experimental practice or technology will be implemented; and

(b) The owner or operator has demonstrated that the alternative or experimental practice or technology complies with the requirements of Section 17 of this Act.

(2) If the alternative or experimental practice or technology fails to provide adequate environmental protection, the cabinet shall revoke the variance.

SECTION 15. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Within fifteen (15) working days of the receipt of an application for a swine waste management permit, the cabinet shall notify the applicant in writing whether the application complies with the requirements established by Section 12 of this Act.

(2) If the cabinet determines that the application does not comply with the requirements established by Section 12 of this Act, it shall notify the applicant in writing in sufficient detail:

(a) Of the manner in which the application does not comply; and

(b) That the applicant has thirty (30) days from receipt of notification to correct the deficiencies stated in the cabinet notice.

(3) (a) If the applicant does not correct the deficiencies stated in the cabinet notice, the cabinet shall deny the application;

(b) If the applicant does not correct the deficiencies stated in the cabinet notice, and establishes that the deficiencies were not corrected within the thirty (30) day period for reasons beyond the control of the applicant, the:

1. Deficiencies shall be corrected within a period agreed upon by the applicant and the cabinet; and

2. Application shall not be denied.

(4) If the cabinet determines that an application meets the requirements established by Section 12 of this Act, within forty-five (45) working days of its determination, it shall:

(a) Determine whether the swine waste management permit shall be granted; and

(b) Transmit its determination to the applicant by certified mail.

(5) If the cabinet determines that a swine waste management permit shall not be granted, the cabinet notification required by subsection (4) of this section shall inform the applicant in sufficient detail of the reasons for which the swine waste management permit was not granted.

SECTION 16. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A permittee shall develop a nutrient management plan based on nitrogen requirements for various agronomic crops for realistic crop yields, and shall have adequate land available to accomplish this objective.

(2) The nutrient management plan shall be:

(a) Reviewed annually by the owner or operator of the swine feeding operation; and

(b) Updated annually to coincide with changes that occur in the swine feeding operation, such as:

1. Cropping sequences;

2. Method of application of swine waste disposal; or

3. Land available for swine waste application that is not currently in the nutrient management plan.

(3) The nutrient management plan shall show that swine waste will be applied to the land in an acceptable manner while maintaining or improving soil and plant resources.

(4) The nutrient management plan shall contain the following information:

(a) The date of swine waste application;

(b) The amount of waste applied per acre by farm and field number;

(c) Waste analysis and soil test report for each field involved in swine waste application;

(d) Realistic yield expectation based on the nitrogen rate for the specific agronomic crop involved, and additional sources of applied commercial fertilizer; and

(e) Documentation that the permittee has adequate means for disposal of the swine waste generated from the swine feeding operation. Documentation shall include proof that the permittee:

1. Owns enough land for the use of the swine waste at agronomic rates, including acreage necessary to comply with siting restrictions and for land application in Sections 5 and 6 of this Act;

2. Has obtained a notarized agreement of at least five (5) years duration, evidencing the right to use another person's property for land application; or

3. Has obtained a variance in the setback allowed by Section 7 of this Act from adjoining landowners, if applicable.

SECTION 17. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

A permit shall not be issued to a swine feeding operation that permits a direct discharge into the waters of the Commonwealth, unless that discharge is caused by a rainfall event exceeding a twenty-five (25) year, twenty-four (24) hour rainfall event.

SECTION 18. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Swine waste shall be disposed of by land application, unless an alternative practice is approved by the cabinet.

(2) When disposing of swine waste:

(a) Swine waste shall not reach surface waters of the Commonwealth by runoff, drift, manmade conveyances, direct application, or direct discharge during operation or land application;

(b) Application techniques shall include, but are not limited to, broadcasting by manure tank or irrigation system, injection, or incorporation;

(c) Swine waste shall not be land applied:

1. In excess of the amount needed to provide the nitrogen requirement of the crop being grown;

2. At rates that result in runoff occurring offsite or to surface waters;

3. By a method that causes drift from the site during application; or

4. To saturated soils, during rainfall events, or when the ground surface is frozen;

(d) A twenty-five (25) foot filter strip shall be installed in compliance with NRCS guidelines and maintained around lakes, rivers, blue-line streams, and sinkhole openings; and

(e) A twenty-five (25) foot grass buffer shall be maintained around wells.

SECTION 19. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Upon a change of ownership, the new owner shall notify the cabinet in writing within sixty (60) working days of the closing of the transaction on a form approved by the cabinet.

(2) A new owner shall be entitled to operate the swine feeding operation that the new owner has acquired for the remaining term of the swine waste management permit held by the previous owner.

SECTION 20. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS

FOLLOWS:

(1) If an existing swine feeding operation has more than two thousand (2,000) swine units, or increases the number of swine units to exceed two thousand (2,000), an expansion or construction of facilities or swine waste lagoons to accommodate the additional swine units shall comply with the provisions of Sections 1 to 29 of this Act.

(2) If a swine feeding operation changes the type of swine it serves, the change shall not be considered an expansion or modification if:

(a) The number of swine units has not increased; and

(b) A new swine waste lagoon is not constructed.

SECTION 21. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The owner or operator of the swine feeding operation shall notify the cabinet in writing of the proposed modifications.

(2) The cabinet shall approve or disapprove the proposal within thirty (30) working days of receipt of notification.

(3) If a swine feeding operation expands or modifies an existing swine waste lagoon, only new structures shall be required to meet design and construction standards required by Sections 9 and 13 of this Act.

(4) An existing swine waste lagoon that was designed by NRCS or a professional engineer may be used as part of a new swine feeding operation without being retrofitted.

SECTION 22. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall notify the owner and operator of the expiration date of his or her permit and the date upon which an application for renewal must be submitted one hundred eighty (180) days before the permit expires.

(2) An owner or operator of a swine feeding operation shall apply for renewal of a swine waste management permit sixty (60) days before the permit expires.

(3) An application for renewal of a permit shall include:

(a) A set of updated attachments that show any changes in the permitted land application area, including the:

1. Results of baseline soil analyses required by Section 8 of this Act; and

2. Documents required by Section 7, if applicable, and Section 16 of this Act; and

(b) The most recent five (5) year sampling and analytical data and the land application rates required by Sections 8 and 16 of this Act.

SECTION 23. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A permittee shall notify the cabinet as soon as possible of a planned physical alteration or addition to the swine feeding operation.

(2) A permittee shall give advance notice to the appropriate regional office and the Division of Water's central office in Frankfort of a planned change in the swine feeding operation that may result in noncompliance with the requirements of the permit.

(3) If there is a direct discharge from a swine waste lagoon or a direct discharge during land application to the waters of the Commonwealth, a permittee shall immediately provide the cabinet with the following information:

(a) A description and cause of the discharge, including a description of the flow path to the receiving water body, if any;

(b) An estimate of the flow rate and volume discharge;

(c) The period of discharge, including exact dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and

(d) Steps taken to reduce, eliminate, and prevent recurrence of the discharge.

(4) (a) A permittee shall immediately call and report to the cabinet a noncompliance that may endanger human health or the environment as soon as the permittee becomes aware of the circumstances. The report shall contain:

1. A description of the noncompliance and its cause;

2. The period of noncompliance, including exact dates and times;

3. The anticipated time it is expected to continue; and

4. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and

(b) *Within seven (7) days of the report, the cabinet shall determine whether a site inspection by the cabinet is required.*

SECTION 24. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A permittee shall comply with the conditions of a swine waste management permit.

(2) If a permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee shall apply for and obtain a new permit as required by Section 12 of this Act.

(3) That it would have been necessary to halt or reduce the permitted activity in order to comply with the conditions of the permit shall not be a defense in an enforcement action.

(4) The structural stability of a unit or part of a swine feeding operation shall be the sole responsibility of the permittee. The failure of a structural unit or part of the swine feeding operation shall not relieve the permittee of the responsibility of complying with the conditions of the permit.

(5) A permittee shall take all reasonable steps to minimize or prevent a discharge in violation of the permit.

(6) A permittee shall comply with the conditions of the permit in the operation and maintenance of facilities, systems of treatment and control, and related appurtenances that are installed or used by the permittee.

(7) The filing of a request by the permittee for a permit modification, renewal, reissuance, or a notification of planned changes or anticipated noncompliance, shall not stay a condition of the permit.

(8) A permittee shall furnish to the cabinet, within fifteen (15) days of the cabinet request, information requested by the cabinet to determine:

(a) Whether cause exists for modifying, reissuing, or revoking the swine waste management permit; or

(b) Compliance with the swine waste management permit.

(9) If the cabinet determines that a permittee has failed to comply with the conditions of the permit, the permittee shall furnish the cabinet, upon request, copies of records the permittee is required to keep.

(10) (a) A permittee shall allow the cabinet, or its authorized representative, upon the presentation of credentials and other documents that are required by law, to:

1. Enter upon the premises of the swine feeding operation, or where records pertinent to the permit are or may be kept;

2. Request copies of, at reasonable times, records that are kept under the conditions of the permit;

3. Inspect, at reasonable times, a swine waste lagoon, including monitoring and control equipment, practices, or operations regulated or required under the permit; and

4. Sample or monitor, at reasonable times, for the purposes of assuring compliance with Sections 1 to 29 of this Act;

(b) At the time of inspection, it shall not be a violation of Sections 1 to 29 of this Act if the swine units inventory of a swine feeding operation that is involved only in the operations specified in:

1. Paragraphs (a), (b), or (g) of subsection (2) of Section 4 of this Act vary by ten percent (10%); and

2. Paragraphs (d), (e), or (f) of subsection (2) of Section 4 of this Act vary by twenty percent (20%); and

(c) The person who conducts an inspection shall comply with animal health biosecurity procedures as requested by the owner or operator.

(11) Each application, report, or other information submitted to the cabinet shall be signed and certified by the owner or operator of the swine feeding operation.

SECTION 25. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

A lagoon that was constructed or operated in accordance with Sections 1 to 29 of this Act and is no longer permitted for swine waste storage and treatment, shall be closed as follows:

(1) The owner and operator shall remove and land apply the entire contents of the lagoon in accordance with the swine feeding operation's nutrient management plan;

(2) The empty lagoon shall be backfilled, graded, and revegetated unless the cabinet approves an alternative closure to keep the emptied lagoon as a permanent structure; and

(3) The owner and operator shall stabilize the site by using standard erosion control practices, unless the cabinet approves an alternative closure that complies with the environmental standards established by Section 17 of this Act.

SECTION 26. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) If the cabinet determines that a swine feeding operation does not comply with the requirements of Sections 1 to 29 of this Act or the conditions of its swine waste management permit, the cabinet shall send the owner or operator a warning letter.

(2) A warning letter shall state:

(a) The provision of Sections 1 to 29 of this Act that the owner or operator has violated;

(b) The act or other matter that constitutes the violation; and

(c) That the owner or operator has sixty (60) days to:

1. Enter into a compliance agreement with the cabinet; or

2. Inform the cabinet in writing of the reasons the owner or operator believes that he or she has not failed to comply with the provisions of Sections 1 to 29 of this Act, or at a meeting with personnel designated by the cabinet.

(3) If the owner or operator fails to respond to or enter into a compliance agreement with the cabinet within the time period specified by subsection (2) of this section, or if the cabinet determines that the owner or operator has violated the provisions of Sections 1 to 29 of this Act after review of the letter or meeting specified by subsection (2) of this section, and the owner or operator fails to enter into a compliance agreement with the cabinet, the cabinet shall:

(a) Revoke or modify the permit;

(b) Initiate enforcement action;

(c) Initiate pollution abatement procedures authorized by KRS 224.71-130;

(d) Issue a notice of intent to deny a new permit; or

(e) Issue a new permit in accordance with Section 12 of this Act with appropriate conditions.

SECTION 27. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) An owner or operator may appeal a determination by the cabinet that:

(a) Relates to an application, permit, certification, documentation, forms, plans, or other subject matter required of an applicant or an owner or operator; and

(b) An owner or operator has violated or otherwise has failed to comply with a requirement relating to a swine feeding operation established by Sections 1 to 29 of this Act, applicable statutes, or administrative regulations.

(2) An administrative hearing conducted by the cabinet relating to an appeal of its determination shall comply with the provisions of KRS Chapter 13B.

SECTION 28. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Circuit Court in the county in which a swine feeding operation is located shall have exclusive jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of Sections 1 to 29 of this Act or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(2) Appeals relating to swine feeding operations shall be taken from a final order of the cabinet to the Circuit Court in the county in which the swine feeding operation is located within thirty (30) days from entry of the final order. The party or parties affected by the final order shall file in the Circuit Court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the secretary. Summons shall issue upon the petition directing the cabinet to send its entire record, properly bound, to the clerk of the Circuit Court after certifying that the record is its entire original record or a true copy thereof, which shall be filed by the clerk of the Circuit Court and the record shall then become official and be considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal, may, upon notice to the parties and upon proper showing and in the discretion of the court, be permitted to intervene. Upon hearing of the appeal the findings of the cabinet shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and final order of the cabinet.

(3) Appeals to the Court of Appeals from orders of the Circuit Court shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.

SECTION 29. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

A person who intentionally violates a provision of Sections 1 to 29 of this Act:

(1) Shall be liable for:

(a) A civil penalty not to exceed the sum of one thousand dollars ($1,000) for the violation; and

(b) An additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which the violation continues; and

(2) May be concurrently enjoined from any violations.

Section 30. KRS 224.10-420 is amended to read as follows:

(1) ***Except as provided by Sections 26 and 27 of this Act, if***[~~Whenever~~] the cabinet has reason to believe that a violation of any of the provisions of this chapter or any administrative regulation promulgated pursuant thereto has occurred, it shall issue and serve upon the person complained against a written notice of the provision of this chapter or the administrative regulation alleged to have been violated and the facts alleged to constitute the violation thereof and shall require the person so complained against to answer the charges set out in the notice at a hearing before the cabinet at a time not less than twenty-one (21) days after the date of notice, except as provided in KRS 224.10-410 or unless the person complained against waives in writing the twenty-one (21) day period.

(2) Any person not previously heard in connection with the issuance of any order or the making of any final determination arising under this chapter by which he considers himself aggrieved may file with the cabinet a petition alleging that the order or final determination is contrary to law or fact and is injurious to him, alleging the grounds and reasons therefor, and demand a hearing. An order or final determination includes, but is not limited to, the issuance, denial, modification, or revocation of a permit, but does not include the issuance of a letter identifying deficiencies in an application for a permit, a registration or a certification, or other nonfinal determinations. This subsection does not abrogate the right to a hearing on a draft permit afforded by KRS 224.40-310. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of such notice, except as provided in KRS 224.10-410 or unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the order or final determination complained of, or could reasonably have had such notice.

Section 31. KRS 224.10-470 is amended to read as follows:

(1) Appeals may be taken from all final orders of the Natural Resources and Environmental Protection Cabinet. ***Except as provided by Section 28 of this Act,*** the appeal shall be taken to the Franklin Circuit Court within thirty (30) days from entry of the final order. The party or parties affected by the final order shall file in the Circuit Court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the secretary. Summons shall issue upon the petition directing the cabinet to send its entire record, properly bound, to the clerk of the Circuit Court after certifying that such record is its entire original record or a true copy thereof, which shall be filed by the clerk of the Circuit Court and such record shall then become official and be considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal, may, upon notice to the parties and upon proper showing and in the discretion of the court be permitted to intervene. Upon hearing of the appeal the findings of the cabinet shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and final order of the cabinet.

(2) Appeals to the Court of Appeals from orders of the Circuit Court, shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.

Section 32. KRS 224.99-010 is amended to read as follows:

(1) ***Except as provided by Section 29 of this Act,*** any person who violates KRS 224.10-110(2) or (3), 224.70-110, 224.73-120, 224.20-050, 224.20-110, 224.46-580, 224.01-400, or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

(2) Any person who violates KRS 224.10-110(4) or (5), or KRS 224.40-100, 224.40-305, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of five thousand dollars ($5,000) for said violation and an additional civil penalty not to exceed five thousand dollars ($5,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be guilty of a Class A misdemeanor. Each day upon which the violation occurs shall constitute a separate violation.

(b) For offenses by motor vehicles, a person shall be guilty of a violation.

(4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100, 224.20-110, 224.20-050, 224.40-305, or 224.10-110(2) or (3), or any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method, or who tampers with a water supply, water purification plant, or water distribution system so as to knowingly endanger human life, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000), or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

(5) If any person engages in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fails to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which the violation continues, and in addition, may be enjoined from any violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any violation.

(8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which the violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

(9) ***Except as provided by Section 31 of this Act,*** the Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(10) Any person who deposits leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with permission of the owner of the receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.

(11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

(12) Any person who violates KRS 224.20-300, 224.20-310, any other provision of this chapter, or any determination, permit, administrative regulation, or order of the cabinet relating to the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Public Law 99-519, as amended, shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to AHERA.

(13) A violation of KRS 224.50-413 shall be subject to a fifty dollar ($50) fine for each day the violation continues.

The Committee Substitute to **HB 709** is as follows:

AN ACT relating to swine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. SUBCHAPTER 51 OF KRS CHAPTER 224 IS ESTABLISHED AND A NEW SECTION THEREOF IS

CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 29 of this Act, unless the context provides otherwise:

(1) "Activity" means, when used in conjunction with facility, any Kentucky Pollutant Discharge Elimination System point source, or any other activity, including land or appurtenances thereto, that is subject to regulation under the Kentucky Pollutant Discharge Elimination System program.

(2) "Cabinet" means the Natural Resources and Environmental Protection Cabinet.

(3) "Direct discharge" means the discharge of a pollutant into waters of the Commonwealth.

(4) "Discharge" or "discharge of a pollutant" means the addition of a pollutant or combination of pollutants to waters of the Commonwealth from any point source, including but not limited to:

- *(a) Additions of pollutants into waters of the Commonwealth from surface run-off which is collected or channeled by human effort;*
- *(b) Discharges through pipes, sewers, or other conveyances whether publicly or privately owned which do not lead to a treatment works; and*
- *(c) Discharges through pipes, sewers, or other conveyances leading into privately owned treatment works.*

(5) "Division" means the Kentucky Division of Water in the Natural Resources and Environmental Protection Cabinet.

(6) "Engineer" or "professional engineer" means a person registered to practice engineering in accordance with KRS Chapter 322.

(7) "Facility or equipment" means a building, structure, process or production equipment, machinery, or a swine waste containment that:

- *(a) Forms a permanent part of a swine feeding operation; and*
- *(b) Will be used in the operation of a swine feeding operation.*

(8) "Filter strip" means a strip or area of vegetation for removing sediment, organic material, and other pollutants from runoff and wastewater.

(9) "Injection" means a type of land application in which the waste is placed directly beneath the land surface.

(10) "KAR" means Kentucky Administrative Regulations.

(11) "KRS" means Kentucky Revised Statutes.

(12) "Land application" means the uniform placement of animal waste on or in the soil by:

- *(a) Spraying or spreading on the surface;*
- *(b) Incorporation into the soil; or*
- *(c) Injection directly beneath the surface.*

(13) "Minimum design volume" means the volume necessary to accommodate the daily volatile solids loading rate as specified in American Society of Agricultural Engineers or NRCS engineering design practices for lagoons.

(14) "Natural Resources Conservation Service" or "NRCS" means the organization created in accordance with 7 USC 6962 in the United States Department of Agriculture.

(15) "Nutrient management plan" means the plan for an individual swine feeding operation developed for the purpose of recycling nutrients from animal waste onto cropland or pasture in a manner that does not cause water pollution.

(16) "Outstanding resource waters" means waters designated as outstanding resource waters under the:

- *(a) Kentucky Wild Rivers Act, KRS 146.200 to 146.360;*
- *(b) Federal Wild and Scenic Rivers Act, 16 USC 1271 et seq.;*
- *(c) Kentucky Nature Preserves Act, KRS 146.410 to 146.530; and*
- *(d) Endangered Species Act of 1973, as amended, 16 USC 1531 et seq.*

(17) "Operate" means an act relating to the construction, operation, or maintenance of any facility.

(18) "Operator" means a person involved in the operation of a facility or activity.

(19) "Owner" means a person who possesses the right to develop or operate a facility or activity.

(20) "Permit" means a Swine Waste Management Permit or a document issued by the cabinet that authorizes the permittee to construct or operate a facility.

(21) "Public water" means a water system that provides water for human consumption to the public, if the system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year, and includes:

(a) Collection, treatment, storage, and distribution facilities under the control of the operator of the system and used primarily in connection with the system; and

(b) Collection and pretreatment storage facilities not under the control of the operator of the water system that are used primarily in connection with the water system.

(22) "Residual solids" means the accumulated solid waste in the lower portion of a lagoon that contains greater than two percent (2%) total solids by dry weight analysis.

(23) "Sinkhole" means a naturally occurring topographic depression in a karst area:

(a) The drainage of which is subterranean and serves as a recharge source for groundwater; and

(b) Formed by the collapse of a conduit or the solution of bedrock.

(24) "Site" means the land where a swine feeding operation or activity is physically located or conducted, including adjacent land used in connection with the swine feeding operation or activity.

(25) "Source" means a building, structure, facility, or installation from which there is or may be a discharge of pollutants.

(26) "Supernatant" means the water that accumulates in the upper portion of a lagoon and contains no greater than two percent (2%) total solids by dry weight analysis.

(27) "Swine feeding operation" means an operation that:

(a) Confines swine units; and

(b) Is not a concentrated animal feeding operation.

(28) "Swine units" means the units of measurement used to determine the applicability of Sections 1 to 29 of this Act.

(29) "Swine waste" means the waste from a swine feeding operation, including manure, bedding, soil, wasted water and feed, and flushing water from swine confinement.

(30) "Swine waste containment" means a structure constructed for the purpose of collecting, storing, and treating the waste from a swine feeding operation.

(31) "Swine Waste Management Permit" means the permit that authorizes the:

(a) Construction or operation of one (1) or more swine waste containments, and all related appurtenances; and

(b) Implementation of a nutrient management plan at the swine feeding operation.

(32) "Twenty-five (25) year, twenty-four (24) hour rainfall event" means a twenty-four (24) hour rainfall event with a probable recurrence interval of once in twenty-five (25) years.

(33) "Variance" means a mechanism or provision that allows a modification or waiver of specified requirements.

(34) "Wellhead protection area" means:

(a) The surface and subsurface area surrounding a water well, well field, or spring, supplying a public water system, through which pollutants are reasonably likely to move toward and reach the water well, well field, or spring; or

(b) An area defined as a wellhead protection area in a county water supply plan.

(35) "Lagoon" means an earthen structure for the storage and biological treatment of wastewater. Lagoons may be aerobic, anaerobic, or facultative depending on their loading and design.

SECTION 2. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 29 of this Act shall apply to a swine feeding operation that:

(a) Is established after the effective date of this Act, and has a total number of swine units of more than one thousand (1,000); or

(b) Exists upon the effective date of this Act and, after the effective date of this Act, increases the total number of swine units to more than two thousand (2,000) swine units.

(2) The provisions of Sections 1 to 29 of this Act shall not apply to a swine feeding operation that:

(a) Exists upon the effective date of this Act;

(b) Has more than two thousand (2,000) swine units; and

(c) After the effective date of this Act, does not increase the total number of swine units that it had upon the effective date of this Act.

(3) The provisions of Sections 1 to 29 of this Act shall not apply to a swine feeding operation that:

(a) Exists upon the effective date of this Act;

(b) Has two thousand (2,000) or fewer swine units; and

(c) After the effective date of this Act, increases the total number of swine units to two thousand (2,000) or fewer swine units.

SECTION 3. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Two (2) or more swine feeding operations shall be related if they share a common:

(a) Swine waste containment; or

(b) Land application area.

(2) For related swine feeding operations, the number of swine units shall be the sum total of the number of swine units of the related operations.

SECTION 4. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Swine Units shall be determined according to the following formula:

(1) Swine units = (0.1xNn) + (0.4xNf) + (0.45xNb) + (3.55xNff) + (0.75xNffe) + (0.41xNfw) + (0.35xNwf).

(2) (a) Nn = Number of nursery pigs;

(b) Nf = Number of finishing pigs;

(c) Nb = Number of boars;

(d) Nff = Number of sows, farrow to finish;

(e) Nffe = Number of sows, farrow to feeder;

(f) Nfw = Number of sows, farrow to wean; and

(g) Nwf = Number of pigs, wean to finish.

SECTION 5. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A facility, swine waste containment, or land application area shall not be located in a:

(a) State or national park;

(b) State or national forest;

(c) Nature preserve;

(d) Wellhead protection area approved by the cabinet;

(e) One hundred (100) year flood plain, unless permitted by the cabinet;

(f) Area determined to be a jurisdictional wetland by NRCS; or

(g) Sinkhole or other enclosed depression where subsidence is evident.

(2) All land applications shall be made on land with:

(a) An established vegetative cover and a slope of eighteen percent (18%) or less; or

(b) No established vegetative cover and a slope of twelve percent (12%) or less.

SECTION 6. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The minimum setback for the items or activities designated in this section shall be measured from the nearest corner of the setback feature or legal property line to the nearest corner of the facility or swine waste containment, whichever is closer. An existing setback feature shall be a setback feature that existed on the date an application was postmarked. The minimum setback shall be as follows:

(1) For a swine facility and waste handling system:

(a) A dwelling that is not owned by an applicant, church, school, school yard, business, park, or other structure to which the general public has access: fifteen hundred (1,500) feet;

(b) Incorporated city limit: three thousand (3,000) feet;

(c) Lake, river, blue-line stream: one hundred fifty (150) feet;

(d) Sinkhole opening: thirty (30) feet;

(e) Water well that is not owned by the applicant: three hundred (300) feet;

(f) Property line: one hundred fifty (150) feet;

(g) Outstanding resource waters measured along gradient: one (1) mile; and

(h) Downstream public water supply surface water intake measured along gradient: five (5) miles;

(2) For land application of swine waste by injection method:

(a) A dwelling that is not owned by an applicant, church, school, school yard, business, park, or other structure to which the general public has access: three hundred (300) feet;

(b) Incorporated city limit: one thousand (1,000) feet;

(c) Lake, river, blue-line stream: fifty (50) feet;

(d) Sinkhole opening: thirty (30) feet;

(e) Water well that is not owned by the applicant: one hundred fifty (150) feet;

(f) Property line: twenty-five (25) feet;

(g) Outstanding resource waters measured along gradient: seven hundred fifty (750) feet; and

(h) Downstream public water supply surface water intake measured along gradient: one (1) mile; and

(3) For land application of swine waste by method other than injection:

(a) A dwelling that is not owned by an applicant, church, school, school yard, business, park, or other structure to which the general public has access: five hundred (500) feet;

(b) Incorporated city limit: fifteen hundred (1,500) feet;

(c) Lake, river, blue-line stream: one hundred (100) feet;

(d) Sinkhole opening: thirty (30) feet;

(e) Water well that is not owned by the applicant: one hundred fifty (150) feet;

(f) Property line: fifty (50) feet;

(g) Outstanding resource waters, measured along gradient: fifteen hundred (1,500) feet; and

(h) Downstream public water supply surface water intake measured along gradient: one (1) mile.

SECTION 7. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet shall grant a variance from the setback requirements established by Section 6 of this Act as follows:

(1) An owner or operator shall be granted a waiver of the setback requirements for the land application of swine waste that relate to a dwelling, church, business, or property line if the owner or operator has obtained and submitted to the cabinet a notarized waiver from the adjoining property owner.

(2) An owner or operator shall be granted a waiver of the setback requirements for a facility if the owner or operator has obtained and submitted to the cabinet a certified deed of easement from the adjoining property owner.

SECTION 8. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) (a) An applicant shall obtain a baseline soil analysis of each field on which swine waste will be applied; and

(b) The baseline soil analysis for each field shall contain the levels of extractable phosphorus, extractable potassium, and pH.

(2) A permittee shall annually obtain soil analyses from each field used for swine waste application to measure extractable phosphorus, extractable potassium, and pH.

(3) (a) A permittee shall annually obtain a laboratory analysis of the nutrient content of the swine waste to be applied to land as provided in the permittee's nutrient management plan;

(b) A permittee with a lagoon shall obtain an analysis of the supernatant, or the supernatant and residual solids;

(c) An analysis shall be made at least sixty (60) days before initial application and on an annual basis thereafter;

(d) Each swine waste sample shall be analyzed for total nitrogen, phosphorus, potassium, pH, and total solids; and

(e) Annual analyses shall be averaged together to develop a farm history for nutrient content of the waste and to provide a basis for land application rates.

(4) (a) A swine feeding operation shall maintain records of all swine waste applied to land based on the farm's nutrient management guideline;

(b) The records shall be entered on a form approved by the cabinet; and

(c) The records shall contain soil and waste analytical results and, for each year of land application, the:

1. Farm or field number and acreage;

2. Date of the application of swine waste or commercial fertilizer;

3. Agronomic crop;

4. Application method; and

5. Quantity applied.

(5) (a) A permittee shall maintain records of soil and swine waste analyses for a minimum of five (5) years, unless the operation has had its permit for less than five (5) years;

(b) If a swine feeding operation has had its permit for less than five (5) years, all records of soil and swine waste analyses shall be maintained; and

(c) Records of soil and swine waste analyses shall be made available to the cabinet upon request.

SECTION 9. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

A lagoon shall meet the requirements of this section and Section 13 of this Act. It shall:

(1) Have a maximum single-structure surface area of five (5) acres;

(2) Be able to hold a maximum design volume that is the sum of the volumes representing:

(a) At least one (1) year's production of residual solids;

(b) The minimum design volume;

(c) At least one hundred eighty (180) days of swine waste production;

(d) Twelve (12) inches of excess precipitation; and

(e) Precipitation from one (1) twenty-five (25) year, twenty-four (24) hour rainfall event;

(3) Have an emergency spillway above the maximum design volume that:

(a) Has one (1) foot of freeboard above the spillway;

(b) Is designed to carry the flow from one (1) 100-year, twenty-four (24) hour storm event; and

(c) Is at least ten (10) feet wide at the crest;

(4) Have a monitoring staff gauge that:

(a) Is clearly marked in a minimum of two-tenths (2/10) foot increments; and

(b) Shows the elevations of the:

1. Minimum and maximum design volumes; and

2. Crest of the spillway;

(5) Be designed by a professional engineer according to NRCS or American Society of Agricultural Engineers standards;

(6) Be constructed so that discharge from the inlet pipes to the lagoon will not erode the berm or the sides of the lagoon;

(7) Have a continuous berm that:

(a) Is at least two (2) feet above grade to prevent surface water from entering the lagoon; and

(b) Has a vegetative cover;

(8) Have been permitted in accordance with KRS 151.250 before construction begins, if the lagoon:

(a) Is more than twenty-five (25) feet in height, measured from the downstream toe of the dam to the crest of the dam;

(b) Impounds more than fifty (50) acre-feet at the crest of the dam; or

(c) Is classified as a high-hazard water-impounding structure; and

(9) Have a:

(a) Compacted soil liner that is at least twelve (12) inches thick and:

1. Is deposited and compacted in at least two (2) six (6) inch lifts; and

2. Has a maximum permeability of 1×10^{-7} *cm/sec;*

(b) Synthetic liner that provides protection equivalent to the protection obtained by the liner specified by paragraph (a) of this subsection; or

(c) Naturally occurring soil structure in the finished lagoon excavation which has a maximum permeability of 1×10^{-7} *cm/sec.*

SECTION 10. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS

FOLLOWS:

(1) (a) After construction of the lagoon and before beginning operation, the as-built construction of the lagoon shall be certified by a professional engineer or the NRCS as meeting the requirements of Section 9 of this Act and shall be submitted to the cabinet; and

(b) Within seven (7) days of receipt of the certification, the cabinet shall review the certification and:

1. Notify the permittee in writing whether the cabinet has approved the certification; or

2. Notify the permittee in writing of the reasons why the cabinet has not approved the certification;

(2) Before introducing swine waste, the lagoon shall be filled with water to at least one-half (½) of minimum design volume, and after the initial filling of the lagoon the lagoon level shall be maintained above the minimum design volume by adding water;

(3) Only swine waste and water required by subsection (2) of Section 9 of this Act shall be discharged or disposed of in the lagoon;

(4) The contents of the lagoon shall be agitated during the removal of residual solids; and

(5) The lagoon shall be inspected periodically by the owner or operator, the vegetative cover shall be kept mowed, and the embankment and berm shall be kept free of shrubs, trees, holes, and animal burrows.

SECTION 11. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A monitoring staff gauge shall be read monthly by the owner or operator;

(2) A record of the readings shall be kept, including the:

(a) Date and time of the reading; and

(b) Individual who made the reading;

(3) An owner or operator shall immediately notify the cabinet and submit to the cabinet the past twelve (12) months of monitoring records within ten (10) days of a:

(a) Monitoring staff gauge reading decline by more than one-half (1/2) foot over any four (4) or fewer consecutive months; or

(b) Reading that is more than one (1) foot below the predicted reading which is estimated from current climatic and facility operation data;

(4) (a) Within forty-five (45) days of notifying the cabinet, an owner or operator shall submit to the cabinet a plan to determine if the lagoon liner has failed and, if it has failed, a description of proposed repairs; and

(b) The plan shall include an analysis of past climatic and operational data to determine whether excess leakage is a probable cause for the declining monitoring staff gauge readings and, if the liner is not performing as designed, the plan shall specify methods for further investigation and repair of the lagoon liner;

(5) (a) The cabinet shall review the plan and determine if changes are needed in the plan;

(b) If the cabinet approves a plan to repair a lagoon, an owner or operator shall comply with the cabinet's approved plan to repair the lagoon within one hundred eighty (180) days after cabinet approval, or sooner if required by the cabinet; and

(6) Before restarting the lagoon operation, the owner or operator shall:

(a) Have a professional engineer or the NRCS certify that the repairs have been made in accordance with the approved plan; and

(b) Notify the cabinet that repairs have been completed.

SECTION 12. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) (a) Prior to filing an application for a new swine feeding operation, or for the expansion of an existing swine feeding operation that is not exempted under subsection (3) of Section 2 of this Act, an owner or operator shall send a written notice of the owner or operator's intent to build or expand a swine feeding operation;

(b) The notice shall be sent by certified mail to all adjoining property owners, and to all property owners located across a public road, street, or highway from the swine feeding operation;

(c) The notice shall be sent to the address on record at the property valuation administrator's office in the county in which the land is located; and

(d) The notice shall include:

1. The name and address of the person intending to construct or expand a swine feeding operation;

2. The number of swine units to be confined; and

3. Information informing the property owners that they may submit written comments to the cabinet.

(2) The owner and operator of a swine feeding operation shall submit to the cabinet an application for a swine waste management permit on an application form approved by the cabinet.

(3) The cabinet application form shall require facility information relating to the location, owner, and operator of the swine feeding operation.

(4) An application shall include two (2) copies of the following:

(a) A completed permit application form;

(b) A United States Geological Survey seven and one-half (7½) minute topographic quadrangle map with the swine feeding operation clearly marked;

(c) A site map with a scale of no less than 1"= 660', including a north arrow and legend, showing the:

1. Swine waste containment location;

2. Location of buildings on the site;

3. Location of setback features specified in Section 6 of this Act and their setbacks or waivers, if applicable;

4. Field number and acres of land application areas;

5. Filter strips if applicable; and

6. Roads;

(d) A set of plans and specifications describing the proposed swine waste containment that has been prepared, stamped, signed, and dated by a professional engineer or the NRCS;

(e) A certified copy of a legal deed of easement or a notarized waiver, if required by Section 7 of this Act;

(f) An operation-specific nutrient management plan that meets the requirements of Section 16 of this Act;

(g) For each initial field that will receive swine waste, the results of the baseline soil analyses required by Section 8 of this Act; and

(h) If applicable, documentation that the owner or operator of a new or expanding swine feeding operation has attempted to notify all adjoining property owners or all property owners located across a public road, street, or highway from the swine feeding operation, of the owner or operator's intent to build or expand a swine feeding operation.

(5) The permit application shall be signed and certified by the owner or operator of the swine feeding operation.

(6) If an applicant becomes aware that he or she has failed to submit a relevant fact in a permit application, or submitted incorrect information in a permit application, he or she shall promptly submit to the cabinet the fact or information.

SECTION 13. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The following types of swine waste containments shall be acceptable:

(a) Anaerobic and aerobic lagoons;

(b) Pits that are containment structures below grade and part of a building or outside of a building;

(c) Liquid-solid separation systems that utilize gravity, screens, or pressure to separate solids from liquids;

(d) A type of swine waste containment that has been certified by NRCS or a professional engineer; or

(e) An in-ground or above-ground storage system that:

1. Is designed and constructed in compliance with American Society of Agricultural Engineers EP393.2 (Manure Storages) or other guidelines accepted by professional engineers;

2. Is designed with covers; and

3. Maintains at least one hundred twenty (120) days storage.

(2) The cabinet shall grant a variance for a swine feeding operation that utilizes an experimental or alternative practice or technology for the treatment of swine waste that meets the requirements established by Section 14 of this Act.

SECTION 14. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall grant a variance to a swine feeding operation that utilizes an experimental or alternative practice or technology for the treatment of swine waste if:

(a) The owner or operator submits a request for the variance that explains the alternative or experimental practice or technology, and documents the manner in which the alternative or experimental practice or technology will be implemented; and

(b) The owner or operator has demonstrated that the alternative or experimental practice or technology complies with the requirements of Section 17 of this Act.

(2) If the alternative or experimental practice or technology fails to provide adequate environmental protection, the cabinet shall revoke the variance.

SECTION 15. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Within fifteen (15) working days of the receipt of an application for a swine waste management permit, the cabinet shall notify the applicant in writing whether the application complies with the requirements established by Section 12 of this Act.

(2) If the cabinet determines that the application does not comply with the requirements established by Section 12 of this Act, it shall notify the applicant in writing in sufficient detail:

(a) Of the manner in which the application does not comply; and

(b) That the applicant has thirty (30) days from receipt of notification to correct the deficiencies stated in the cabinet notice.

(3) (a) If the applicant does not correct the deficiencies stated in the cabinet notice, the cabinet shall deny the application;

(b) If the applicant does not correct the deficiencies stated in the cabinet notice, and establishes that the deficiencies were not corrected within the thirty (30) day period for reasons beyond the control of the applicant, the:

1. Deficiencies shall be corrected within a period agreed upon by the applicant and the cabinet; and

2. Application shall not be denied.

(4) If the cabinet determines that an application meets the requirements established by Section 12 of this Act, within forty-five (45) working days of its determination, it shall:

(a) Determine whether the swine waste management permit shall be granted; and

(b) Transmit its determination to the applicant by certified mail.

(5) If the cabinet determines that a swine waste management permit shall not be granted, the cabinet notification required by subsection (4) of this section shall inform the applicant in sufficient detail of the reasons for which the swine waste management permit was not granted.

SECTION 16. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A permittee shall develop a nutrient management plan based on nitrogen requirements for various agronomic crops for realistic crop yields, and shall have adequate land available to accomplish this objective.

(2) The nutrient management plan shall be:

(a) Reviewed annually by the owner or operator of the swine feeding operation; and

(b) Updated annually to coincide with changes that occur in the swine feeding operation, such as:

1. Cropping sequences;

2. Method of application of swine waste disposal; or

3. Land available for swine waste application that is not currently in the nutrient management plan.

(3) The nutrient management plan shall show that swine waste will be applied to the land in an acceptable manner while maintaining or improving soil and plant resources.

(4) The nutrient management plan shall contain the following information:

(a) The date of swine waste application;

(b) The amount of waste applied per acre by farm and field number;

(c) Waste analysis and soil test report for each field involved in swine waste application;

(d) Realistic yield expectation based on the nitrogen rate for the specific agronomic crop involved, and additional sources of applied commercial fertilizer; and

(e) Documentation that the permittee has adequate means for disposal of the swine waste generated from the swine feeding operation. Documentation shall include proof that the permittee:

    1. *Owns enough land for the use of the swine waste at agronomic rates, including acreage necessary to comply with siting restrictions and for land application in Sections 5 and 6 of this Act;*
    2. *Has obtained a notarized agreement of at least five (5) years duration, evidencing the right to use another person's property for land application; or*
    3. *Has obtained a variance in the setback allowed by Section 7 of this Act from adjoining landowners, if applicable.*

SECTION 17. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

A permit shall not be issued to a swine feeding operation that permits a direct discharge into the waters of the Commonwealth, unless that discharge is caused by a rainfall event exceeding a twenty-five (25) year, twenty-four (24) hour rainfall event.

SECTION 18. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Swine waste shall be disposed of by land application, unless an alternative practice is approved by the cabinet.

(2) When disposing of swine waste:

- *(a) Swine waste shall not reach surface waters of the commonwealth by runoff, drift, manmade conveyances, direct application, or direct discharge during operation or land application;*
- *(b) Application techniques shall include, but are not limited to, broadcasting by manure tank or irrigation system, injection, or incorporation;*
- *(c) Swine waste shall not be land applied:*
    - *1. In excess of the amount needed to provide the nitrogen requirement of the crop being grown;*
    - *2. At rates that result in runoff occurring offsite or to surface waters;*
    - *3. By a method that causes drift from the site during application; or*
    - *4. To saturated soils, during rainfall events, or when the ground surface is frozen;*
- *(d) A twenty-five (25) foot filter strip shall be installed in compliance with NRCS guidelines and maintained around lakes, rivers, blue-line streams, and sinkhole openings; and*
- *(e) A twenty-five (25) foot grass buffer shall be maintained around wells.*

SECTION 19. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Upon a change of ownership, the new owner shall notify the cabinet in writing within sixty (60) working days of the closing of the transaction on a form approved by the cabinet.

(2) A new owner shall be entitled to operate the swine feeding operation that the new owner has acquired for the remaining term of the swine waste management permit held by the previous owner.

SECTION 20. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) If an existing swine feeding operation has more than two thousand (2,000) swine units, or increases the number of swine units to exceed two thousand (2,000), an expansion or construction of facilities or swine waste containments to accommodate the additional swine units shall comply with the provisions of Sections 1 to 29 of this Act.

(2) If a swine feeding operation changes the type of swine it serves, the change shall not be considered an expansion or modification if:

- *(a) The number of swine units has not increased; and*
- *(b) A new swine waste containment is not constructed.*

SECTION 21. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The owner or operator of the swine feeding operation shall notify the cabinet in writing of the proposed modifications.

(2) The cabinet shall approve or disapprove the proposal within thirty (30) working days of receipt of notification.

(3) If a swine feeding operation expands or modifies an existing swine waste containment, only new structures shall be required to meet design and construction standards required by Section 9 or 13 of this Act.

(4) An existing swine waste containment that was designed by NRCS or a professional engineer may be used as part of a new swine feeding operation without being retrofitted.

SECTION 22. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall notify the owner and operator of the expiration date of his or her permit and the date upon which an application for renewal must be submitted one hundred eighty (180) days before the permit expires.

(2) An owner or operator of a swine feeding operation shall apply for renewal of a swine waste management permit sixty (60) days before the permit expires.

(3) An application for renewal of a permit shall include:

(a) A set of updated attachments that show any changes in the permitted land application area, including the:

1. Results of baseline soil analyses required by Section 8 of this Act; and

2. Documents required by Section 7, if applicable, and Section 16 of this Act; and

(b) The most recent five (5) year sampling and analytical data and the land application rates required by Sections 8 and 16 of this Act.

SECTION 23. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A permittee shall notify the cabinet as soon as possible of a planned physical alteration or addition to the swine feeding operation.

(2) A permittee shall give advance notice to the appropriate regional office and the Division of Water's central office in Frankfort of a planned change in the swine feeding operation that may result in noncompliance with the requirements of the permit.

(3) If there is a direct discharge from a swine waste containment or a direct discharge during land application to the waters of the Commonwealth, a permittee shall immediately provide the cabinet with the following information:

(a) A description and cause of the discharge, including a description of the flow path to the receiving water body, if any;

(b) An estimate of the flow rate and volume discharge;

(c) The period of discharge, including exact dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and

(d) Steps taken to reduce, eliminate, and prevent recurrence of the discharge.

(4) (a) A permittee shall immediately call and report to the cabinet a noncompliance that may endanger human health or the environment as soon as the permittee becomes aware of the circumstances. The report shall contain:

1. A description of the noncompliance and its cause;

2. The period of noncompliance, including exact dates and times;

3. The anticipated time it is expected to continue; and

4. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance; and

(b) Within seven (7) days of the report, the cabinet shall determine whether a site inspection by the cabinet is required.

SECTION 24. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A permittee shall comply with the conditions of a swine waste management permit.

(2) If a permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee shall apply for and obtain a new permit as required by Section 12 of this Act.

(3) That it would have been necessary to halt or reduce the permitted activity in order to comply with the conditions of the permit shall not be a defense in an enforcement action.

(4) The structural stability of a unit or part of a swine feeding operation shall be the sole responsibility of the permittee. The failure of a structural unit or part of the swine feeding operation shall not relieve the permittee of the responsibility of complying with the conditions of the permit.

(5) A permittee shall take all reasonable steps to minimize or prevent a discharge in violation of the permit.

(6) A permittee shall comply with the conditions of the permit in the operation and maintenance of facilities, systems of treatment and control, and related appurtenances that are installed or used by the permittee.

(7) The filing of a request by the permittee for a permit modification, renewal, reissuance, or a notification of planned changes or anticipated noncompliance, shall not stay a condition of the permit.

(8) A permittee shall furnish to the cabinet, within fifteen (15) days of the cabinet request, information requested by the cabinet to determine:

(a) Whether cause exists for modifying, reissuing, or revoking the swine waste management permit; or

(b) Compliance with the swine waste management permit.

(9) If the cabinet determines that a permittee has failed to comply with the conditions of the permit, the permittee shall furnish the cabinet, upon request, copies of records the permittee is required to keep.

(10) (a) A permittee shall allow the cabinet, or its authorized representative, upon the presentation of credentials and other documents that are required by law, to:

1. Enter upon the premises of the swine feeding operation, or where records pertinent to the permit are or may be kept;

2. Request copies of, at reasonable times, records that are kept under the conditions of the permit;

3. Inspect, at reasonable times, a swine waste containment, including monitoring and control equipment, practices, or operations regulated or required under the permit; and

4. Sample or monitor, at reasonable times, for the purposes of assuring compliance with Sections 1 to 29 of this Act;

(b) At the time of inspection, it shall not be a violation of Sections 1 to 29 of this Act if the swine units inventory of a swine feeding operation that is involved only in the operations specified in:

1. Paragraphs (a), (b), or (g) of subsection (2) of Section 4 of this Act vary by ten percent (10%); and

2. Paragraphs (d), (e), or (f) of subsection (2) of Section 4 of this Act vary by twenty percent (20%); and

(c) The person who conducts an inspection shall comply with animal health biosecurity procedures as requested by the owner or operator.

(11) Each application, report, or other information submitted to the cabinet shall be signed and certified by the owner or operator of the swine feeding operation.

SECTION 25. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

A swine waste containment that was constructed or operated in accordance with Sections 1 to 29 of this Act and is no longer permitted for swine waste storage and treatment, shall be closed as follows:

(1) The owner and operator shall remove and land apply the entire contents of the swine waste containment in accordance with the swine feeding operation's nutrient management plan;

(2) An empty lagoon shall be backfilled, graded, and revegetated unless the cabinet approves an alternative closure to keep the emptied lagoon as a permanent structure; and

(3) The owner and operator shall stabilize the site by using standard erosion control practices, unless the cabinet approves an alternative closure that complies with the environmental standards established by Section 17 of this Act.

SECTION 26. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) If the cabinet determines that a swine feeding operation does not comply with the requirements of Sections 1 to 29 of this Act or the conditions of its swine waste management permit, the cabinet shall send the owner or operator a warning letter.

(2) A warning letter shall state:

(a) The provision of Sections 1 to 29 of this Act that the owner or operator has violated;

(b) The act or other matter that constitutes the violation; and

(c) That the owner or operator has sixty (60) days to:

1. Enter into a compliance agreement with the cabinet; or

2. Inform the cabinet in writing of the reasons the owner or operator believes that he or she has not failed to comply with the provisions of Sections 1 to 29 of this Act, or at a meeting with personnel designated by the cabinet.

(3) If the owner or operator fails to respond to or enter into a compliance agreement with the cabinet within the time period specified by subsection (2) of this section, or if the cabinet determines that the owner or operator has violated the provisions of Sections 1 to 29 of this Act after review of the letter or meeting specified by subsection (2) of this section, and the owner or operator fails to enter into a compliance agreement with the cabinet, the cabinet shall:

(a) Revoke or modify the permit;

(b) Initiate enforcement action;

(c) Initiate pollution abatement procedures authorized by KRS 224.71-130;

(d) Issue a notice of intent to deny a new permit; or

(e) Issue a new permit in accordance with Section 12 of this Act with appropriate conditions.

SECTION 27. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) An owner or operator may appeal a determination by the cabinet that:

(a) Relates to an application, permit, certification, documentation, forms, plans, or other subject matter required of an applicant or an owner or operator; and

(b) An owner or operator has violated or otherwise has failed to comply with a requirement relating to a swine feeding operation established by Sections 1 to 29 of this Act, applicable statutes, or administrative regulations.

(2) An administrative hearing conducted by the cabinet relating to an appeal of its determination shall comply with the provisions of KRS Chapter 13B.

SECTION 28. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Circuit Court in the county in which a swine feeding operation is located shall have exclusive jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of Sections 1 to 29 of this Act or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(2) Appeals relating to swine feeding operations shall be taken from a final order of the cabinet to the Circuit Court in the county in which the swine feeding operation is located within thirty (30) days from entry of the final order. The party or parties affected by the final order shall file in the Circuit Court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the secretary. Summons shall issue upon the petition directing the cabinet to send its entire record, properly bound, to the clerk of the Circuit Court after certifying that the record is its entire original record or a true copy thereof, which shall be filed by the clerk of the Circuit Court and the record shall then become official and be considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal, may, upon notice to the parties and upon proper showing and in the discretion of the court, be permitted to intervene. Upon hearing of the appeal the findings of the cabinet shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and final order of the cabinet.

(3) Appeals to the Court of Appeals from orders of the Circuit Court shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.

SECTION 29. A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

A person who intentionally violates a provision of Sections 1 to 29 of this Act:

(1) Shall be liable for:

(a) A civil penalty not to exceed the sum of one thousand dollars ($1,000) for the violation; and

(b) An additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which the violation continues; and

(2) May be concurrently enjoined from any violations.

Section 30. KRS 224.10-420 is amended to read as follows:

(1) *Except as provided by Sections 26 and 27 of this Act, if*~~[Whenever]~~ the cabinet has reason to believe that a violation of any of the provisions of this chapter or any administrative regulation promulgated pursuant thereto has occurred, it shall issue and serve upon the person complained against a written notice of the provision of this chapter or the administrative regulation alleged to have been violated and the facts alleged to constitute the violation thereof and shall require the person so complained against to answer the charges set out in the notice at a hearing before the cabinet at a time not less than twenty-one (21) days after the date of notice, except as provided in KRS 224.10-410 or unless the person complained against waives in writing the twenty-one (21) day period.

(2) Any person not previously heard in connection with the issuance of any order or the making of any final determination arising under this chapter by which he considers himself aggrieved may file with the cabinet a petition alleging that the order or final determination is contrary to law or fact and is injurious to him, alleging the grounds and reasons therefor, and demand a hearing. An order or final determination includes, but is not limited to, the issuance, denial, modification,

or revocation of a permit, but does not include the issuance of a letter identifying deficiencies in an application for a permit, a registration or a certification, or other nonfinal determinations. This subsection does not abrogate the right to a hearing on a draft permit afforded by KRS 224.40-310. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of such notice, except as provided in KRS 224.10-410 or unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the order or final determination complained of, or could reasonably have had such notice.

Section 31. KRS 224.10-470 is amended to read as follows:

(1) Appeals may be taken from all final orders of the Natural Resources and Environmental Protection Cabinet. ***Except as provided by Section 28 of this Act,*** the appeal shall be taken to the Franklin Circuit Court within thirty (30) days from entry of the final order. The party or parties affected by the final order shall file in the Circuit Court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the secretary. Summons shall issue upon the petition directing the cabinet to send its entire record, properly bound, to the clerk of the Circuit Court after certifying that such record is its entire original record or a true copy thereof, which shall be filed by the clerk of the Circuit Court and such record shall then become official and be considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal, may, upon notice to the parties and upon proper showing and in the discretion of the court be permitted to intervene. Upon hearing of the appeal the findings of the cabinet shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and final order of the cabinet.

(2) Appeals to the Court of Appeals from orders of the Circuit Court, shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.

Section 32. KRS 224.99-010 is amended to read as follows:

(1) ***Except as provided by Section 29 of this Act,*** any person who violates KRS 224.10-110(2) or (3), 224.70-110, 224.73-120, 224.20-050, 224.20-110, 224.46-580, 224.01-400, or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

(2) Any person who violates KRS 224.10-110(4) or (5), or KRS 224.40-100, 224.40-305, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of five thousand dollars ($5,000) for said violation and an additional civil penalty not to exceed five thousand dollars ($5,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be guilty of a Class A misdemeanor. Each day upon which the violation occurs shall constitute a separate violation.

(b) For offenses by motor vehicles, a person shall be guilty of a violation.

(4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100, 224.20-110, 224.20-050, 224.40-305, or 224.10-110(2) or (3), or any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method, or who tampers with a water supply, water purification plant, or water distribution system so as to knowingly endanger human life, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000), or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

(5) If any person engages in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fails to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which the violation continues, and in addition, may be enjoined from any violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any violation.

(8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which the violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.

(9) ***Except as provided by Section 31 of this Act,*** the Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(10) Any person who deposits leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with permission of the owner of the receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.

(11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

(12) Any person who violates KRS 224.20-300, 224.20-310, any other provision of this chapter, or any determination, permit, administrative regulation, or order of the cabinet relating to the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Public Law 99-519, as amended, shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to AHERA.

(13) A violation of KRS 224.50-413 shall be subject to a fifty dollar ($50) fine for each day the violation continues.

HB 769, AN ACT relating to agricultural marketing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.020 is amended to read as follows:

(1) The Office ***for Agricultural Marketing and Product Promotion***[~~of Agri-Markets~~] in the Department of Agriculture shall be under the supervision of the Commissioner, and shall consist of personnel determined and appointed by the Commissioner.

(2) The Office ***for Agricultural Marketing and Product Promotion***[~~of Agri-Markets~~] shall be headed by an ***executive director***[~~office head~~] appointed by the Commissioner.

Section 2. KRS 260.030 is amended to read as follows:

(1) The Office ***for Agricultural Marketing and Product Promotion***[~~of Agri-Markets~~] shall:

(a) ***Promote and develop markets for Kentucky agricultural products, assist in setting up farm cooperatives, and assist in coordinating feasibility studies, loans, grants, and funding activities for producers and cooperatives***[~~Stress promotional market efforts and make available to farmers practical assistance in setting up farm cooperatives~~];

(b) Gather and disseminate information concerning supply, demand, prevailing prices, and commercial movement, including common and cold storage of food products, and maintain market news service for the purpose of disseminating ***this***[~~such~~] information;

(c) Foster and encourage the inspection, grading, standardizing, labeling, and branding of farm products; provide standards of excellence and brands for the use of producers and consumers in the marketing of Kentucky-grown products; and promote the standardization of packages and containers for ***those***[~~such~~] purposes;

(d) ***Promulgate administrative***~~[Make]~~ regulations for the grading, packing, hauling, storing, and sale of farm products ***if***~~[when]~~ the ***administrative*** regulations are authorized by statutes, and enforce those ***administrative*** regulations;

(e) Act as mediator or arbitrator, when invited, in any issue that may arise between producers and distributors of agricultural products;

(f) Encourage the establishment of public markets and direct dealing between producer and consumer;

(g) ***Promote the sale of Kentucky-grown products locally, and in domestic and international markets***~~[Encourage the consumption of Kentucky grown products within and without the state]~~;

(h) Encourage the development of a market for the commercial production of earthworms;~~[and]~~

(i) Negotiate and enter into cooperative agreements with the United States Department of Agriculture or any other appropriate federal agency for carrying ***out the provisions of*** this section***; and***~~[into effect]~~

(j) Develop opportunities for the diversification of Kentucky agriculture, including additional crops and enterprises for tobacco growers.

(2) The functions of the office shall be supplementary to, and not in duplication of, the educational activities of the College of Agriculture of the University of Kentucky.

(3) In accomplishing its purposes, the office shall not compete with business operated by private capital.

HB 774, AN ACT relating to dog licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and subsections (3) and (4) of KRS 258.990, unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Committee" means the advisory committee created by KRS 258.115;

(4) "Dog" means any member of the canine family***, four (4)***~~[six (6)]~~ months of age or over;

(5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

(6) "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine and confined and domesticated hares and rabbits;

(7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;

(8) "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;

(9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions.

Section 2. KRS 258.135 is amended to read as follows:

(1) ***Upon the effective date of this Act***~~[On or before July 1, 1954, and on or before July 1 of each year thereafter]~~, the owner of any dog ***four (4)***~~[six (6)]~~ months old or over shall apply to the dog warden of the county in which he resides for a license for each dog owned or kept by him***, if the dog is not licensed on the effective date of this Act***. The application shall be accompanied by a license fee of one dollar and fifty cents ($1.50) for each dog. ~~[Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955.]~~ Dog wardens shall be agents of the Commonwealth in the collection of the license fees provided for herein, unless the department determines, with the approval of the Governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the fee, dog wardens shall be allowed to retain the sum of twenty-five cents ($0.25) for each license. The balance of the license fee collected shall be paid to the department on or before the fifteenth day of each next succeeding month and shall be credited to the livestock fund. If the committee finds it to be in the interest of maximum enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in enforcement, the department may allow these portions of the license fee to be so retained by the counties.

(2) ***(a) Upon the effective date of this Act, dog licenses shall be issued annually***~~[Any county may choose to issue the license]~~ in conjunction with effective dates of a valid rabies vaccination***, as required in KRS 258.015***~~[provided the dog shall be licensed each fiscal year]~~.

(b) Any dog owner whose dog is exempt from having a rabies vaccination under the exemptions provided by KRS 258.025(1) and 258.035 shall still obtain a license for any dog that otherwise would be required to licensed.

Section 3. KRS 258.145 is amended to read as follows:

(1) A dog license bearing a serial number and[~~ such~~] other information ***that***[~~as~~] will properly identify the dog shall be issued on a form prescribed and supplied by the department[~~ and shall be void on July 1, of the following year~~]. Upon issuance of the license, the owner shall be furnished a tag prescribed and supplied by the department bearing a serial number corresponding with the serial number of the license***, and stamped by the dog warden or agent with the date of issuance, which date shall be in conjunction with the effective date of a valid rabies vaccination***. If a license or tag is lost, a duplicate shall be issued at a charge determined by the department. The department may, if the committee deems[~~ such~~] a plan practical, arrange for the tattooing of dogs under a system whereby tattoo marks[~~ shall~~] serve as proof of licensing in the event a tag is lost or is removed for good reason by a dog owner or keeper, but[~~ such~~] tattooing shall be done only upon the request of the owner or keeper.

(2) The tag shall be affixed to a substantial collar furnished by the owner which shall be kept on the dog at all times, and only the owner or his authorized agent shall remove the collar with attached tag from any dog.

(3) No license or tag issued for one dog shall be transferable to another dog except as provided in KRS 258.165.

(4) Except when a tattoo is used, any dog not bearing a tag shall prima facie be deemed to be unlicensed, and in any proceedings under this chapter the burden of proof of the fact that a dog has been licensed shall be on the owner of the dog.

Section 4. KRS 258.155 is amended to read as follows:

Any person becoming the owner of a dog which has not already been licensed ***or***[~~after July 1 of any year, and the owner of any dog~~] which becomes ***four (4)***[~~six (6)~~] months old [~~after July 1 of any year~~]shall[~~ forthwith~~] apply for and procure a license and tag for his dog in the same manner as the annual license is obtained.

HB 776, AN ACT relating to ferrets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.355 is amended to read as follows:

(1) No person shall use ferrets in hunting. No person shall keep a ferret ***which was born in the wild*** as a pet or for any purpose, unless he has procured a ferret permit from the commissioner. A permit must be obtained within ten (10) days after the person acquires possession of a ferret and one (1) permit shall entitle the holder to keep any number of ferrets. If the owner of any ferret uses it contrary to the provisions of this chapter, the commissioner may revoke his permit and confiscate all of his ferrets. Each use of a ferret in hunting shall constitute a separate offense.

(2) The provisions of subsection (1) of this section shall not apply to a ferret which has been born and raised in captivity nor to a ferret born and raised in captivity which was obtained from a pet store or private vendor. Except for the prohibition on using a ferret for hunting, no permit shall be necessary to keep a ferret which was born and raised in captivity and a ferret born and raised in captivity shall be exempt from regulation under KRS Chapter 150 or administrative regulations promulgated thereunder.

The Committee on Appropriations and Revenue reported **HB 319, HB 320, HB 321, HJR 34, HJR 35,** and **HJR 36** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 319, AN ACT making appropriations for operations, maintenance, and support of the legislative branch of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

Funds are appropriated to the Legislative Research Commission out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for the fiscal year beginning July 1, 1999, and ending June 30, 2000, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the legislative branch of government of the Commonwealth of Kentucky. For column display purposes, 1999-00 represents fiscal year 1999-2000.

		1998-99	1999-00
1.	General Assembly		
	General Fund	8,759,000	14,300,000
	Restricted Funds	115,000	65,000
	Total	8,874,000	14,365,000

The above General Fund appropriation to the General Assembly includes funds for the Legislators Retirement Plan in each fiscal year. Included in the above General Fund appropriation is $786,000 in fiscal year 1998-99 and $1,725,000 in fiscal year 1999-2000 for increases in salary and per diem, contingent upon passage of enabling legislation by the 1998 General Assembly.

The above General Fund appropriation provides for the continuation of the annual cost of living adjustment authorized for the 1996-98 biennium. Notwithstanding KRS 6.190 and KRS 6.213, the daily compensation provided by KRS 6.190 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall continue as adjusted on January 1, 1997, and January 1, 1998. Notwithstanding KRS 6.190 and KRS 6.213, the daily compensation provided by KRS 6.190 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall be adjusted on January 1, 1999, and January 1, 2000, by the all urban consumer price index (CPI-U) not to exceed 5 percent (5%) per annum.

2. Legislative Research Commission

General Fund	22,966,500	25,579,000
Restricted Funds	125,000	125,000
Total	23,091,500	25,704,000

The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation shall not exceed 261 in fiscal year 1998-99 and 261 in fiscal year 1999-2000. Within this total, the permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

The above General Fund appropriation includes $364,000 in fiscal year 1998-99 and $264,000 in fiscal year 1999-2000 for the capital projects authorized in the Capital Projects Budget, Part II. Project funds may be transferred to the Capital Construction Fund.

TOTAL - OPERATING BUDGET

	1998-99	1999-00
General Fund	31,725,500	39,879,000
Restricted Funds	240,000	190,000
TOTAL	31,965,500	40,069,000

Notwithstanding the provisions of KRS 45.229, any unexpended balance remaining at the close of fiscal year 1997-98 shall not lapse but shall continue into the 1998-99 fiscal year and any unexpended balance in any succeeding fiscal year shall not lapse, but shall continue into the following fiscal year.

PART II

CAPITAL PROJECTS BUDGET

		1998-99	1999-00
1.	Legislative Research Commission		
a.	Printing/duplicating machine - rental		
	General Fund	264,000	264,000
b.	Collating system		
	General Fund	100,000	
	TOTAL	364,000	264,000

The amounts listed above are not in addition to the funds appropriated in the Operating Budget, Part I.

TOTALS - LEGISLATIVE BRANCH BUDGET

	1998-99	1999-00
General Fund	31,725,500	39,879,000
Restricted Funds	240,000	190,000
TOTAL FUNDS	31,965,500	40,069,000

PART III

GENERAL PROVISIONS

1. The director of the Legislative Research Commission with the approval of the Legislative Research Commission may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose which the Commission shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the legislative branch of government.

2. The director of the Legislative Research Commission shall submit monthly to the Legislative Research Commission a report listing all travel expenses reimbursed, travel related per diem, and any other travel related reimbursement for each General Assembly member and each employee of the Legislative Research Commission who was reimbursed during the previous month.

3. No member of the General Assembly except members of the Legislative Research Commission shall receive in any one fiscal year per diem compensation in excess of 7 days in connection with out-of-state travel unless prior written approval has been received from the Legislative Research Commission.

4. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

5. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 1998 General Assembly which constitute a duplicate appropriation shall be governed by KRS 48.312.

6. KRS 48.313 shall control when a total, subtotal, or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

7. Proposed revisions to restricted funds and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The director of the Legislative Research Commission shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Legislative Research Commission shall cause the director of the Legislative. Research Commission to prepare a final budget document reflecting the 1998-00 biennial budget of the legislative branch. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 1998 session of the General Assembly.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The legislative branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

HB 320, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for the fiscal year beginning July 1, 1999, and ending June 30, 2000, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facilities fund and for services performed by the Circuit Clerk's offices, including both Circuit and District Court support. For column display purposes in this Act, 1999-00 represents fiscal year 1999-2000.

	1998-99	1999-00
1. Court of Justice		
a. Court operations and administration		
General Fund	119,361,000	126,453,000
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
Total	124,373,000	131,337,000

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 1998-99 and in fiscal year 1999-2000 for nonelected court personnel. Included are funds to provide for a five percent (5%) salary adjustment for justices and judges in fiscal year 1998-99 and a five percent (5%) adjustment for the justices and judges in fiscal year 1999-2000. Also included are funds for the salaries of the circuit clerks in fiscal year 1998-99 and fiscal year 1999-2000 as provided for in the judicial branch budget recommendation. Restricted funds of $700,000 in each fiscal year are included for the Jefferson County Court technology improvement system as described in Part II, Capital Projects Budget.

b. Local facilities fund

	1998-99	1999-00
General Fund	29,735,000	41,140,500

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A, and included in the Capital Improvements Plan as provided in KRS Chapter 7A; and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 1997-98 shall not lapse but shall continue into fiscal year 1998-99 and any unexpended balance at the close of fiscal year 1998-99 shall not lapse, but shall be continued into fiscal year 1999-2000.

	1998-99	1999-00
Total Court of Justice		
General Fund	149,096,000	167,593,500
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
Total	154,108,000	172,477,500

2. Judicial Form Retirement System

	1998-99	1999-00
General Fund	6,472,500	6,483,000

General Fund amounts are included to provide for the 1997 actuarial assessed needs of the Judicial Form Retirement System. Included in the above General Fund appropriation is $200,000 in each fiscal year contingent upon passage of enabling legislation related to the judicial retirement plan.

TOTAL - OPERATING BUDGET

	1998-99	1999-00
General Fund	155,568,500	174,076,500
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
TOTAL	160,580,500	178,960,500

PART II

CAPITAL PROJECTS BUDGET

A. Court Facility Use Allowance Contingency Fund

	1998-99	1999-00
General Fund	1,805,500	2,422,500

General Fund amounts are included to provide for cost overruns in court facility projects authorized by the 1996 General Assembly and the 1998 General Assembly not to exceed fifteen percent (15%) of the use allowance. Any overrun, not to exceed fifteen percent (15%), shall be approved by the Court Facilities Standards Committee and reported to the Capital Projects and Bond Oversight Committee. The director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice Operating Budget as required for any authorized cost overruns.

B. Court Designated Worker Case Management System

	1998-99
General Fund	500,000

General Fund amounts are appropriated in the capital budget for implementation of the court designated worker case management system. The director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice Operating Budget as necessary to implement this system. Inasmuch as the identification of specific equipment cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes for equipment items which are not individually identified in this Act related to the implementation of the court designated worker case management system. Any individual equipment item estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee.

C. Jefferson County Court Technology Improvement System

	1998-99	1999-00
Restricted Funds	700,000	700,000

Restricted Funds are included in the Operating Budget for implementation of the Jefferson County court technology improvement system. Inasmuch as the identification of specific equipment cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes for equipment items which are not individually identified in this Act related to the implementation for the Jefferson County court technology improvement system. Any individual equipment item estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee.

D. Local Facility Projects

Multiyear schedule for the use allowance payments for the capital costs for each local facility project is contained in the Judicial Branch Budget Recommendation.

1.	Bell County - Project Scope	6,393,200
2.	Christian County - Project Scope	9,560,800
3.	Project Pool - Project Scope	18,507,300
4.	Henderson County - Project Scope	8,019,800
5.	Kenton County Phase II - Project Scope	4,515,600
6.	Marshall County - Project Scope	7,383,800
7.	Harrison County - Project Scope	6,152,000
8.	Boone County - Project Scope	7,971,900
9.	Fayette County - Revised Scope	62,500,000
10.	Lyon County - Project Scope	4,758,500
11.	McCreary County - Project Scope	5,183,100
12.	ADA Pool - Project Scope	3,952,200
13.	Harlan County - Project Scope	5,857,400
14.	Lewis County - Project Scope	5,299,700
15.	McLean County - Project Scope	3,752,100

For any facility project occupied sooner than anticipated in the multiyear schedule, the use allowance payments shall be approved from the Court Facility Use Allowance Contingency Fund. In the event funds are not available in the Court Facility Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense.

Construction of all court projects shall be in compliance with the standards as set by the National Center for State Courts.

TOTAL - CAPITAL PROJECTS BUDGET

	1998-99	1999-00
General Fund	2,305,500	2,422,500
Restricted Funds	700,000	700,000
TOTAL	3,005,500	3,122,500

TOTALS - JUDICIAL BRANCH BUDGET

	1998-99	1999-00
General Fund	157,874,000	176,499,000
Restricted Funds	5,102,000	5,140,000
Federal Funds	610,000	444,000
TOTAL FUNDS	163,586,000	182,083,000

PART III

GENERAL PROVISIONS

1. The director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose which the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriation contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 1998 General Assembly which constitute a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal accounts at the close of the fiscal years ending June 30, 1998, and June 30, 1999, shall not lapse but shall continue into the next fiscal year.

7. Proposed revisions to restricted and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the director of the Administrative Office of the Courts to prepare a final budget document reflecting the 1998-2000 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 1998 Regular Session of the General Assembly.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

HB 321, AN ACT relating to appropriations providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, restricted funds accounts, or federal funds accounts for the fiscal year ending June 30, 1998, and for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act. For column display purposes in this Act, 1999-00 represents fiscal year 1999-2000.

A. GOVERNMENT OPERATIONS

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	1998-99	1999-00
General Fund	9,189,500	9,540,000
Restricted Funds	400,000	400,000
Total	9,589,500	9,940,000

Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

b. Governor's Office for Policy and Management

	1998-99	1999-00
General Fund	2,820,500	3,058,000
Restricted Funds	40,000	40,000
Total	2,860,500	3,098,000

c. State Planning Fund

	1998-99	1999-00
General Fund	500,000	500,000

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a $25,000 grant in each fiscal year to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	1998-99	1999-00
General Fund	12,510,000	13,098,000
Restricted Funds	440,000	440,000
TOTAL	12,950,000	13,538,000

2. SECRETARY OF STATE

	1998-99	1999-00
General Fund	2,254,300	2,354,300
Restricted Funds	142,500	145,500
Total	2,396,800	2,499,800

3. BOARD OF ELECTIONS

	1998-99	1999-00
General Fund	4,099,800	4,172,100
Restricted Funds	40,000	40,000
Total	4,139,800	4,212,100

Included in the above General Fund appropriation is $2,801,500 in fiscal year 1998-1999 and $2,835,000 in fiscal year 1999-2000 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145 and KRS 117.343). Any unexpended balance remaining at the close of each fiscal year shall lapse to the credit of the General Fund Surplus Account. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145 and KRS 117.343 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Special elections and additional precincts due to redistricting shall be deemed necessary governmental expenses and be paid from the General Fund Surplus Account (KRS 48.700).

4. TREASURY

	1998-99	1999-00
General Fund	2,078,500	2,135,200
Total	2,078,500	2,135,200

Included in the General Fund appropriation above is a Restricted Funds source replacement of $166,500 in fiscal year 1998-99 and $166,500 in fiscal year 1999-2000 for discontinued annual funding for services performed for the Cabinet for Families and Children by the Treasury Department.

5. ATTORNEY GENERAL

	1998-99	1999-00
General Fund	12,940,500	13,520,700
Restricted Funds	5,976,500	6,256,500
Federal Funds	1,639,500	1,595,500
Total	20,556,500	21,372,700

6. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	1998-99	1999-00
General Fund	18,013,000	18,900,100
Restricted Funds	482,500	511,500
Federal Funds	626,500	659,500
Total	19,122,000	20,071,100

Included in the above General Fund appropriation is $267,600 in fiscal year 1998-99 and $354,700 in fiscal year 1999-2000 to allow part-time Commonwealth's Attorneys to become full-time.

b. County Attorneys

	1998-99	1999-00
General Fund	16,656,700	17,486,000
Restricted Funds	102,000	105,500
Federal Funds	78,500	83,500
Total	16,837,200	17,675,000

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	1998-99	1999-00
General Fund	34,669,700	36,386,100
Restricted Funds	584,500	617,000
Federal Funds	705,000	743,000
TOTAL	35,959,200	37,746,100

7. AUDITOR OF PUBLIC ACCOUNTS

	1998-99	1999-00
General Fund	5,315,800	5,549,400
Restricted Funds	3,639,500	3,798,500
Total	8,955,300	9,347,900

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

8. AGRICULTURE

	1998-99	1999-00
General Fund	23,434,100	19,030,000
Restricted Funds	2,357,500	2,403,000
Federal Funds	1,894,100	1,898,000
Total	27,685,700	23,331,000

Included in the above General Fund appropriation is $456,000 in each fiscal year for Murray State University and $370,000 in each fiscal year for the University of Kentucky for the diagnostic laboratories at each institution.

Included in the above General Fund appropriation is $800,000 in each fiscal year for regional university agriculture programs, to be equally distributed among the four universities.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended funds for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint office.

Included in the above General Fund appropriation is $500,000 in each fiscal year for the Youth Tobacco Enforcement Program pursuant to KRS 438.330 and KRS 438.335. The Alcohol Beverage Control agency shall jointly participate in the program's enforcement.

Included in the above General Fund appropriation is $6,315,000 for fiscal year 1998-99 and $1,185,000 for fiscal year 1999-2000 for the new Agricultural Marketing Initiative. Notwithstanding KRS 45.299, any unexpended portion of $5,130,000 in fiscal year 1998-99 shall be continued into the succeeding fiscal year.

Included in the above General Fund appropriation is $75,000 in each fiscal year for personnel and operating expenditures necessary to implement the Farm Safety Initiative.

9. MILITARY AFFAIRS

	1998-99	1999-00
General Fund	10,256,500	10,854,300
Restricted Funds	10,333,500	10,699,500
Federal Funds	8,958,500	8,960,000
Total	29,548,500	30,513,800

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially-declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Notwithstanding KRS 39.817, Restricted Funds from the Kentucky Emergency Response Commission Fee Account shall be utilized for general operations of the Department.

Included in the above General Fund appropriation is $200,000 in fiscal year 1998-99 and $300,000 in fiscal year 1999-2000 for Disaster and Emergency Services County Offices.

Also included in the above General Fund appropriation is $175,000 in fiscal year 1999-2000 for debt service for bonds to replace the communications system for the Division of Disaster and Emergency Services.

10. PERSONNEL BOARD

	1998-99	1999-00
General Fund	513,700	531,700
Restricted Funds	5,000	5,000
Total	518,700	536,700

11. LOCAL GOVERNMENT

	1997-98	1998-99	1999-00
General Fund	196,500	10,213,900	9,749,900
Restricted Funds		456,000	456,000
Federal Funds		38,381,000	38,685,500
Total	196,500	49,050,900	48,891,400

Included in the above General Fund appropriation is $478,000 in fiscal year 1999-2000 for debt service for bonds for the Local Match Participation Program for statewide flood control projects.

12. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	1998-99	1999-00
General Fund	31,746,100	33,182,500

b. Local Government Economic Development Fund

	1998-99	1999-00
General Fund	27,284,100	32,192,000

The above appropriations from the General Fund are based on the official estimate of the Secretary of the Finance and Administration Cabinet for severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of thirty-five percent (35%) effective July 1, 1998, and thirty-eight percent (38%) effective July 1, 1999, notwithstanding provisions set forth in KRS 42.4582. If actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,026,000 in fiscal year 1998-99 and $1,664,400 in fiscal year 1999-2000 has been credited to the Osteopathic Scholarship program within the Council on Postsecondary Education.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,026,000 in fiscal year 1998-99 and $1,664,400 in fiscal year 1999-2000 has been credited to the Osteopathic Scholarship program within the Council on Postsecondary Education.

Notwithstanding KRS 42.4585, effective July 1, 1998, the amount transferred annually from the Local Government Economic Development Fund into the Local Government Economic Assistance Fund under the provisions of KRS 42.4585 shall not be less than an amount equal to fourteen percent of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $450,000 has been credited to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $350,000 has been credited to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $325,000 in fiscal year 1998-99 and $320,000 in fiscal year 1999-2000, has been credited to the Coal County Development Office within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $510,000 in fiscal year 1998-99 and $525,000 in fiscal year 1999-2000 has been credited to the Kentucky Appalachian Commission within the Office of the Governor.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund to coal producing counties pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $916,300 has been credited to the Secondary Wood Products Development Fund in each year of the biennium.

Notwithstanding KRS 42.4588, the fiscal courts of the coal producing counties enumerated in this paragraph receiving allocations through the Local Government Economic Development Fund pursuant to KRS 42.4592 are authorized to expend Local Government Economic Development Fund moneys for public purposes identified by the respective fiscal courts of the coal producing counties in the manner and amounts enumerated: Harlan County - Harlan Tourism Center - $2,000,000; Underground Mine Tour - $1,000,000; Henderson County - Riverfront Improvement - $500,000; Jackson County - Area Vocational School - $500,000; Knott County - Red Fox Golf Course - $1,000,000, Educational Complex - $2,000,000, Operation of the Arts and Crafts Complex - $250,000 in fiscal year 1998-99 and fiscal year 1999-2000; Leslie County - Community Development Training Center - $4,000,000; Letcher County - Red Fox Golf Course - $700,000, Community Educational Facility at Jenkins - $2,000,000; Martin County - Improve Water Treatment Plant - $3,000,000, Healthcare Clinic - $1,000,000; Ohio County - Bill Monroe Museum - $800,000; Perry County - Red Fox Golf Course - $700,000; Pike County - Civic Center - $6,500,000, Improvements at Fishtrap Reservoir - $1,000,000; Webster County - Upgrade Water Plan - $2,000,000; and Union County - Camp Breckinridge Museum - $1,000,000.

These projects are determined by the General Assembly to be important to the furtherance of the policy objectives and economic development purposes for which the Local Government Economic Development Fund was established. Total expenditures from this source in fiscal year 1998-99 and fiscal year 1999-2000 shall not exceed the amounts listed in the preceding paragraph for any project or any county enumerated above. No project in any coal county receiving funds from the Local Government Economic Development Fund, pursuant to KRS 42.4592, shall commit or expend such funds except upon prior written public approval of the Fiscal Court as reported to the Kentucky Department for Local Government and the Kentucky Cabinet for Economic Development.

Pursuant to the authority authorized in KRS 42.485, the continuing appropriation amount from fiscal year 1997-98 to fiscal year 1998-99 and from fiscal year 1998-99 to fiscal year 1999-2000 shall equal the cash balance in the Local Government Economic Development and Local Government Economic Assistance Funds accounts at the close of the preceding fiscal year.

c. Area Development Fund

Notwithstanding KRS 48.185, no funds are provided from the General Fund for the Area Development Fund.

TOTAL - SPECIAL FUNDS

	1998-99	1999-00
General Fund	59,030,200	65,374,500

13. COMMISSION ON HUMAN RIGHTS

	1998-99	1999-00
General Fund	1,905,400	1,962,400
Restricted Funds	8,500	8,500
Federal Funds	189,500	189,500
Total	2,103,400	2,160,400

14. COMMISSION ON WOMEN

	1997-98	1998-99	1999-00
General Fund	65,000	246,100	253,600

15. KENTUCKY RETIREMENT SYSTEMS

	1998-99	1999-00

Restricted Funds	14,386,000	15,418,500

16. KENTUCKY KARE HEALTH INSURANCE AUTHORITY

	1998-99	1999-00
Restricted Funds	1,003,000	1,042,500

17. REGISTRY OF ELECTION FINANCE

	1998-99	1999-00
General Fund	5,009,600	4,074,000
Restricted Funds	357,000	
Total	5,366,600	4,074,000

Included in the above General Fund appropriation is $3,641,000 in fiscal year 1998-99 and $2,665,000 in fiscal year 1999-2000 to pay the state share of Gubernatorial campaign financing (KRS 121A.030 and 121A.080). Any unexpended balance remaining at the close of each fiscal year shall lapse to the credit of the General Fund Surplus Account. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 121A.030 and 121A.080 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

18. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	1998-99	1999-00
Restricted Funds	555,500	561,500

b. Alcohol and Drug Counselors

	1998-99	1999-00
Restricted Funds	76,000	77,500

c. Board of Architects

	1998-99	1999-00
Restricted Funds	162,500	202,500

d. Board of Art Therapists

	1998-99	1999-00
Restricted Funds	6,500	7,000

e. Kentucky Athletic Commission

	1998-99	1999-00
Restricted Funds	60,500	66,500

f. Board of Auctioneers

	1998-99	1999-00
Restricted Funds	259,500	268,500

g. Board of Barbering

	1998-99	1999-00
Restricted Funds	215,000	222,500

h. Board of Chiropractic Examiners

	1998-99	1999-00
Restricted Funds	132,000	139,500

i. Board of Dentistry

	1998-99	1999-00
Restricted Funds	343,000	364,500

j. Board of Dietitians and Nutritionists

	1998-99	1999-00
Restricted Funds	36,500	37,500

k. Board of Embalmers and Funeral Directors

	1998-99	1999-00

Restricted Funds	161,500	170,500

l. Board of Engineers and Land Surveyors

	1998-99	1999-00
Restricted Funds	998,000	1,033,000

m. Board of Geologists

	1998-99	1999-00
Restricted Funds	59,000	60,500

n. Board of Hairdressers and Cosmetologists

	1998-99	1999-00
Restricted Funds	891,500	876,000

o. Board of Hearing Instrument Specialists

	1998-99	1999-00
Restricted Funds	28,000	29,500

p. Board of Landscape Architecture

	1998-99	1999-00
Restricted Funds	45,000	47,000

q. Board of Marriage and Family

	1998-99	1999-00
Restricted Funds	21,000	22,000

r. Board of Medical Licensure

	1998-99	1999-00
Restricted Funds	1,604,000	1,669,500

s. Board of Nursing

	1998-99	1999-00
Restricted Funds	2,720,000	2,739,000

Included in the above Restricted Funds appropriation is $290,000 in fiscal year 1998-99 and $200,000 in fiscal year 1999-2000 for the Nursing Incentive Scholarship Program.

t. Nursing Home Administrators Licensure Board

	1998-99	1999-00
Restricted Funds	54,500	57,500

u. Board of Occupational Therapy

	1998-99	1999-00
Restricted Funds	40,000	41,500

v. Board of Ophthalmic Dispensers

	1998-99	1999-00
Restricted Funds	26,000	27,000

w. Board of Optometric Examiners

	1998-99	1999-00
Restricted Funds	129,500	135,500

x. Board of Pharmacy

	1998-99	1999-00
Restricted Funds	594,500	621,000

y. Board of Physical Therapy

	1998-99	1999-00
Restricted Funds	249,500	255,000

z. Board of Podiatry

	1998-99	1999-00

Restricted Funds	9,500	9,500

aa. Professional Counselors

	1998-99	1999-00
Restricted Funds	12,000	14,000

ab. Board of Psychology

	1998-99	1999-00
Restricted Funds	171,000	186,000

ac. Real Estate Appraisers Board

	1998-99	1999-00
Restricted Funds	357,000	370,000

ad. Real Estate Commission

	1998-99	1999-00
Restricted Funds	1,969,000	2,043,000

Included in the above Restricted Funds appropriation is $827,500 in fiscal year 1998-99 and $852,500 in fiscal year 1999-2000 for Real Estate Education and Recovery.

ae. Board of Respiratory Care

	1998-99	1999-00
Restricted Funds	58,000	58,500

af. Board of Social Workers

	1998-99	1999-00
Restricted Funds	74,000	76,500

ag. Board of Speech Pathologists and Audiologists

	1998-99	1999-00
Restricted Funds	60,500	62,000

ah. Board of Veterinary Examiners

	1998-99	1999-00
Restricted Funds	82,500	90,000

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	1998-99	1999-00
Restricted Funds	12,262,500	12,641,500

19. GOVERNMENTAL SERVICES CENTER

	1998-99	1999-00
Restricted Funds	1,237,000	1,276,000

20. EXECUTIVE BRANCH ETHICS COMMISSION

	1998-99	1999-00
General Fund	270,700	281,400
Restricted Funds	3,000	3,000
Total	273,700	284,400

21. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	1998-99	1999-00
General Fund	10,000,000	-0-

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 1997-1998 or fiscal year 1998-1999 shall not lapse but shall be carried forward into fiscal years 1998-99 and 1999-2000, respectively.

b. Attorney General Expense

	1998-99	1999-00
General Fund	150,000	150,000

c. Board of Claims Awards

	1998-99	1999-00
General Fund	300,000	300,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $1,000, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	1998-99	1999-00
General Fund	2,000,000	2,000,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	1998-99	1999-00
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	1998-99	1999-00
General Fund	300,000	300,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	1998-99	1999-00
General Fund	60,000	60,000

h. Frankfort in Lieu of Taxes

	1998-99	1999-00
General Fund	195,000	195,000

i. Frankfort Cemetery

	1998-99	1999-00
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	1998-99	1999-00
General Fund	300,000	300,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	1998-99	1999-00
General Fund	260,000	280,000

l. Master Commissioners--Social Security

	1998-99	1999-00
General Fund	161,000	166,000

m. Workers' Compensation

	1998-99	1999-00
General Fund	275,000	290,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	1998-99	1999-00
General Fund	60,000	60,000

TOTAL - MISCELLANEOUS APPROPRIATIONS

	1998-99	1999-00
General Fund	14,463,500	4,503,500

Included in the above appropriations is $0 in fiscal year 1998-99 and $0 in fiscal year 1999-2000 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from any available balance in the Judgments appropriation and then from either the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

22. KENTUCKY VETERANS' CENTER (NURSING HOME)

	1998-99	1999-00
General Fund	5,618,300	5,909,400
Restricted Funds	10,677,000	11,304,500
Total	16,295,300	17,213,900

TOTAL - GOVERNMENT OPERATIONS

	1997-98	1998-99	1999-00
General Fund	261,500	204,830,600	199,740,500
Restricted Funds		63,909,000	66,555,500
Federal Funds		51,767,600	52,071,500
TOTAL	261,500	320,507,200	318,367,500

B. CABINET FOR ECONOMIC DEVELOPMENT

23. CABINET FOR ECONOMIC DEVELOPMENT

a. Secretary

	1998-99	1999-00
General Fund	3,483,000	4,491,000

Included in the above General Fund appropriations is $450,000 for the East Kentucky Jobs Creation Corporation and $350,000 for the West Kentucky Jobs Creation Corporation each fiscal year of the biennium. Both Corporations are required to submit a quarterly financial and status report to the Legislative Research Commission and to the Interim Joint Committee on Appropriations and Revenue. Also included in the above General Fund appropriations is $325,000 in fiscal year 1998-99 and $320,000 in fiscal year 1999-2000 for the Coal County Development Office. Notwithstanding KRS 42.4592, the General Fund appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Coal County Development Office will be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

b. Administration and Support

	1998-99	1999-00
General Fund	1,899,000	2,008,000
Restricted Funds	254,000	223,000
Total	2,153,000	2,231,000

c. Job Development

	1998-99	1999-00
General Fund	2,333,000	2,413,000

d. Financial Incentives

	1998-99	1999-00
General Fund	2,729,000	3,343,000
Restricted Funds	3,040,500	2,347,000

Total	5,769,500	5,690,000

The General Fund appropriation for fiscal year 1997-98 and succeeding fiscal years for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account, notwithstanding KRS 45.229.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill, shall lapse to the Capital Construction Surplus Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

e. Debt Service

	1998-99	1999-00
General Fund		666,000

f. Community Development

	1998-99	1999-00
General Fund	2,733,000	2,862,000
Restricted Funds	177,000	186,500
Federal Funds	179,000	160,000
Total	3,089,000	3,208,500

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	1998-99	1999-00
General Fund	13,177,000	15,783,000
Restricted Funds	3,471,500	2,756,500
Federal Funds	179,000	160,000
TOTAL	16,827,500	18,699,500

C. EDUCATION

24. EDUCATION

a. Support Education Excellence in Kentucky (SEEK) Program

	1998-99	1999-00
General Fund	2,114,755,500	2,184,668,000

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky program.

The above appropriations include $1,524,123,500 in fiscal year 1998-99 and $1,573,075,600 in fiscal year 1999-2000 for the base SEEK program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Included in the appropriation for base SEEK is $174,743,900 in fiscal year 1998-99 and $189,859,500 in fiscal year 1999-2000 for pupil transportation..

Included in the above appropriation is $120,236,800 in fiscal year 1998-99 and $118,834,100 in fiscal year 1999-2000 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,278,000 in fiscal year 1998-99 and $2,346,000 in fiscal year 1999-2000 for vocational transportation.

Included in the above appropriation is $19,623,000 in fiscal year 1998-99 and $20,545,000 in fiscal year 1999-2000 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $43,150,300 in fiscal year 1998-99 and $41,137,800 in fiscal year 1999-2000 to provide facilities equalization funding pursuant to the provisions of KRS 157.620 and KRS 157.440.

Included in the above appropriation is $230,600,000 in fiscal year 1998-99 and $238,870,000 in fiscal year 1999-2000 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

b. Executive Policy and Management

	1998-99	1999-00

General Fund	3,430,400	3,536,700
Restricted Funds	384,800	405,700
Federal Funds	510,000	526,000
Total	4,325,200	4,468,400

c. Management Support Services

	1998-99	1999-00
General Fund	286,802,400	303,911,900
Restricted Funds	2,119,500	2,188,000
Federal Funds	135,865,200	139,926,000
Total	424,787,100	446,025,900

Included in the above General Fund appropriation is $20,000,000 in fiscal year 1998-99 and $22,000,000 in fiscal year 1999-2000 for the education technology escrow account.

Included in the above General Fund appropriation is $9,500,000 in each fiscal year for reimbursement to local school districts for the Out-of-District Children Program.

Included in the above General Fund appropriation is $217,343,500 in fiscal year 1998-99 and $231,297,000 in fiscal year 1999-2000 to provide health and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $2,336,000 in fiscal year 1998-99 and $2,406,000 in fiscal year 1999-2000 to enable the Department of Education to provide the employer match for qualified employees as provided by KRS 161.550.

d. Learning Results Services

	1998-99	1999-00
General Fund	35,157,800	35,756,900
Restricted Funds	146,000	150,500
Total	35,303,800	35,907,400

Included in the above General Fund appropriation is $10,000,000 in each fiscal year for the school rewards escrow account.

e. Learning Support Services

	1998-99	1999-00
General Fund	172,433,200	192,894,200
Restricted Funds	2,100,000	2,160,500
Federal Funds	213,027,500	219,417,500
Total	387,560,700	414,472,200

The above General Fund appropriation includes $39,620,900 in fiscal year 1998-99 and $41,969,800 in fiscal year 1999-2000 for Family Resource and Youth Services Centers. Also included in the above General Fund appropriation is $4,874,100 in fiscal year 1998-99 and $5,127,300 in fiscal year 1999-2000 for the Kentucky School for the Blind, and $8,332,900 in fiscal year 1998-99 and $8,895,900 in fiscal year 1999-2000 for the Kentucky School for the Deaf.

Included in the above General Fund appropriation is $50,000 in each fiscal year for the Advisory Council for Gifted and Talented Education.

TOTAL - EDUCATION

	1998-99	1999-00
General Fund	2,612,579,300	2,720,767,700
Restricted Funds	4,750,300	4,904,700
Federal Funds	349,402,700	359,869,500
TOTAL	2,966,732,300	3,085,541,900

D. EDUCATION, ARTS AND HUMANITIES CABINET

25. OFFICE OF THE SECRETARY

	1998-99	1999-00
General Fund	2,219,100	2,277,600
Restricted Funds	94,000	97,000

Total	2,313,100	2,374,600

Included in the above General Fund appropriation is $4,000 in each fiscal year for operating expenses related to the Martin Luther King Jr. Commission.

Included in the above General Fund appropriation is $1,186,500 in fiscal year 1998-99 and $1,221,500 in fiscal year 1999-2000 for the Governor's Scholars Program.

Included in the above General Fund appropriation is $318,500 in fiscal year 1998-99 and $328,000 in fiscal year 1999-2000 for the Governor's School for the Arts.

Included in the above General Fund appropriation is $200,000 in each fiscal year for the East Kentucky Center for Science, Mathematics, and Technology.

26. KENTUCKY ARTS COUNCIL

	1998-99	1999-00
General Fund	4,095,800	4,216,600
Restricted Funds	362,500	369,500
Federal Funds	476,000	416,000
Total	4,934,300	5,002,100

27. TEACHERS' RETIREMENT SYSTEM

	1998-99	1999-00
General Fund	74,800,000	77,800,000
Restricted Funds	4,401,700	4,733,100
Total	79,201,700	82,533,100

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716, notwithstanding the provisions of KRS 161.550.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716, notwithstanding KRS 161.550. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 1998-99 or fiscal year 1999-2000 for the cost of administration.

Included in the above General Fund appropriation is $2,465,100 in fiscal year 1998-99 and $5,111,300 in fiscal year 1999-2000 to provide, when combined with the annual one and one-half (1.5%) percent retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two percent (2%) in fiscal year 1998-99 and an additional two percent (2%) in fiscal year 1999-2000.

28. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	1998-99	1999-00
General Fund	61,201,000	66,714,000

Included in the above General Fund appropriation is $57,471,500 in fiscal year 1998-99 and $57,360,600 in fiscal year 1999-2000 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $1,988,500 in fiscal year 1998-99 and $3,601,400 in fiscal year 1999-2000 for debt service for previously-authorized bonds.

Included in the above General Fund appropriation is $1,520,000 in fiscal year 1998-99 and $5,520,000 in fiscal year 1999-2000 for debt service for newly-authorized bonds.

29. DEAF AND HARD OF HEARING

	1998-99	1999-00
General Fund	539,800	503,200
Restricted Funds	200,000	200,000
Total	739,800	703,200

30. KENTUCKY HERITAGE COUNCIL

	1998-99	1999-00
General Fund	730,400	751,900
Restricted Funds	95,500	114,000

Federal Funds	792,000	792,000
Total	1,617,900	1,657,900

31. KENTUCKY EDUCATIONAL TELEVISION

	1998-99	1999-00
General Fund	14,217,700	14,520,000
Restricted Funds	868,000	1,096,000
Total	15,085,700	15,616,000

32. KENTUCKY HISTORICAL SOCIETY

	1998-99	1999-00
General Fund	5,063,600	5,271,100
Restricted Funds	369,500	455,000
Federal Funds	585,000	144,000
Total	6,018,100	5,870,100

Included in the above General Fund appropriation is $2,668,000 in fiscal year 1998-99 and $2,803,500 in fiscal year 1999-2000 for the Kentucky History Center.

33. LIBRARIES AND ARCHIVES

a. General Operations

	1998-99	1999-00
General Fund	6,435,200	6,611,000
Restricted Funds	1,360,000	1,490,000
Federal Funds	1,477,500	1,499,000
Total	9,272,700	9,600,000

b. Direct Local Aid

	1998-99	1999-00
General Fund	5,706,000	5,877,500
Restricted Funds	8,500	9,000
Federal Funds	541,000	541,000
Total	6,255,500	6,427,500

TOTAL - LIBRARIES AND ARCHIVES

	1998-99	1999-00
General Fund	12,141,200	12,488,500
Restricted Funds	1,368,500	1,499,000
Federal Funds	2,018,500	2,040,000
Total	15,528,200	16,027,500

34. KENTUCKY CENTER FOR THE ARTS

	1998-99	1999-00
General Fund	625,500	625,500

35. ENVIRONMENTAL EDUCATION COUNCIL

	1998-99	1999-00
General Fund	53,000	
Restricted Funds	262,000	262,000
Total	315,000	262,000

Included in the above General Fund appropriation is $53,000 in fiscal year 1998-99 to facilitate production of the Council's Master Plan.

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	1998-99	1999-00
General Fund	175,687,100	185,168,400
Restricted Funds	8,021,700	8,825,600

Federal Funds	3,871,500	3,392,000
TOTAL	187,580,300	197,386,000

E. CABINET FOR FAMILIES AND CHILDREN

36. SOCIAL INSURANCE

a. Administration

	1998-99	1999-00
General Fund	57,179,700	57,158,200
Restricted Funds	38,160,500	41,364,500
Federal Funds	155,032,900	161,197,100
Total	250,373,100	259,719,800

The Department for Social Insurance shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

If any portion of the above General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the department, the amount may be used for Temporary Assistance for Needy Families (TANF) Benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance. In no instance shall these excess funds be used without prior written approval of the State Budget Director of the Governor's Office for Policy and Management to:

(1) Establish a new program.

(2) Expand the services of an existing program.

(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management and shall be reported to the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding KRS 45.229, General Fund moneys in the amount of $1,500,000 shall continue from fiscal year 1998-99 into fiscal year 1999-2000.

b. Benefits

	1998-99	1999-00
General Fund	77,047,500	73,773,500
Restricted Funds	2,000,000	
Federal Funds	158,976,500	161,987,000
Total	238,024,000	235,760,500

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance.

Due to the demands placed upon the Cabinet to meet the increasing participation rates required for welfare reform, any General Fund appropriation unexpended in fiscal years 1997-98 and 1998-99 shall not lapse but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229, in compliance with the General Provisions of this Act.

Any unexpended appropriations for Social Insurance - Benefits in excess of $5,000,000 in fiscal year 1997-98 and any unexpended appropriations in fiscal year 1998-99 shall be used to fund the federally mandated Medicaid - Temporary Assistance to Needy Families (TANF) systems de-link and the state match for the Welfare-to-Work program. Any remaining unexpended appropriations may be used for other welfare reform-related expenditures within the Cabinet, subject to the approval of the State Budget Director of the Governor's Office for Policy and Management.

37. SOCIAL SERVICES

	1997-98	1998-99	1999-00
General Fund	5,000,000	126,437,700	138,610,400
Restricted Funds		41,339,000	41,339,000
Federal Funds		141,020,500	142,675,500
Total	5,000,000	308,797,200	322,624,900

Notwithstanding KRS 45.229, General Fund moneys in the amount of $3,279,900 shall continue forward from fiscal year 1998-99 to fiscal year 1999-2000.

38. AGING SERVICES

	1998-99	1999-00

General Fund	23,244,500	23,337,000
Federal Funds	16,844,500	16,844,500
Total	40,089,000	40,181,500

39. ADMINISTRATION SERVICES

	1998-99	1999-00
General Fund	8,631,000	8,770,500
Restricted Funds	2,312,000	1,573,500
Federal Funds	6,889,000	7,095,500
Total	17,832,000	17,439,500

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	1997-98	1998-99	1999-00
General Fund	5,000,000	292,540,400	301,649,600
Restricted Funds		83,811,500	84,277,000
Federal Funds		478,763,400	489,799,600
Total	5,000,000	855,115,300	875,726,200

F. FINANCE AND ADMINISTRATION CABINET

40. FINANCE AND ADMINISTRATION CABINET

a. General Administration

	1998-99	1999-00
General Fund	8,805,000	8,830,000
Restricted Funds	4,323,000	4,508,000
Federal Funds	58,133,000	58,132,000
Road Fund	125,000	125,000
Total	71,386,000	71,595,000

Included in the above Restricted Funds appropriation is $351,000 in fiscal year 1998-99 and $362,000 in fiscal year 1999-2000 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that directly benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Kentucky Information Resources Management (KIRM) Commission shall approve, the cost allocation plan. Upon approval by KIRM, the agencies and universities shall pay their proportional share of the plan.

Included in the above appropriations is $125,000 from the Road Fund and $466,000 in Restricted Funds in fiscal year 1998-99, and $125,000 from the Road Fund and $481,000 from Restricted Funds in fiscal year 1999-2000 to fund the Kentucky Information Resources Management Commission at a continuation level of funding. Should the Commission find it necessary to increase its level of spending, subject to the conditions and procedures in this Act, the additional expenses shall be offset by proposed charges to state agencies and university users.

Included in the above General Fund appropriation is $400,000 in fiscal year 1998-1999 for the Affordable Housing Trust Fund which shall be matched with $400,000 from the Kentucky Housing Corporation Housing Assistance Fund.

b. Debt Service

	1998-99	1999-00
General Fund	142,743,000	158,864,000

Included in the above General Fund appropriation is $1,012,000 in fiscal year 1999-2000 for new bonds for all KIA programs. Also included in the above General Fund appropriation is $889,000 in fiscal year 1998-1999 and $889,000 in fiscal year 1999-2000 for previously-authorized but unissued bonds for all Kentucky Infrastructure Authority programs.

Also included in the above General Fund appropriation is $10,734,000 in fiscal year 1998-99 and $10,727,000 in fiscal year 1999-2000 for debt service on all previously-issued bonds by the Kentucky Infrastructure Authority.

c. Administration

	1998-99	1999-00
General Fund	3,852,000	3,943,000
Restricted Funds	8,063,000	8,347,000

Road Fund	257,000	270,000
Total	12,172,000	12,560,000

d. Facilities Management

	1998-99	1999-00
General Fund	8,087,000	8,365,000
Restricted Funds	19,097,000	20,458,000
Total	27,184,000	28,823,000

e. Information Systems

	1998-99	1999-00
Restricted Funds	48,933,000	50,384,000

f. County Costs

	1998-99	1999-00
General Fund	16,186,000	16,186,000
Restricted Funds	1,327,000	1,327,000
Total	17,513,000	17,513,000

Included in the above General Fund appropriation is $5,431,000 in fiscal year 1998-99 and $5,431,000 in fiscal year 1999-00 for base court revenue. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

g. County Fees

	1998-99	1999-00
Restricted Funds	49,744,000	51,771,000

TOTAL - FINANCE AND ADMINISTRATION CABINET

	1998-99	1999-00
General Fund	179,673,000	196,188,000
Restricted Funds	131,487,000	136,795,000
Federal Funds	58,133,000	58,132,000
Road Fund	382,000	395,000
TOTAL	369,675,000	391,510,000

G. CABINET FOR HEALTH SERVICES

41. MEDICAID SERVICES

a. Administration

	1998-99	1999-00
General Fund	20,443,700	20,810,600
Restricted Funds	6,232,500	5,732,500
Federal Funds	22,375,000	23,278,500
Total	49,051,200	49,821,600

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director of the Governor's Office for Policy and Management to:

(1) Establish a new program.

(2) Expand the services of an existing program.

(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management.

b. Benefits

	1998-99	1999-00

General Fund	618,571,000	647,054,500
Restricted Funds	219,029,500	177,044,500
Federal Funds	2,000,999,500	1,971,000,000
Total	2,838,600,000	2,795,099,000

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Any General Fund appropriation unexpended in fiscal years 1997-98 and 1998-99 shall not lapse, but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration up to one half of one percent (.5%) or $4,000,000, whichever is less, of the combined General Fund and Restricted Funds appropriations to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Year 2000 compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

42. PUBLIC HEALTH

	1998-99	1999-00
General Fund	53,887,300	55,426,700
Restricted Funds	10,088,000	9,408,000
Federal Funds	113,987,500	114,583,500
Total	177,962,800	179,418,200

43. MENTAL HEALTH/MENTAL RETARDATION

	1998-99	1999-00
General Fund	143,943,400	151,397,600
Restricted Funds	122,541,500	125,237,000
Federal Funds	35,150,500	34,990,000
Total	301,635,400	311,624,600

44. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	1998-99	1999-00
General Fund	3,817,700	6,190,600
Restricted Funds	5,771,000	5,100,000
Federal Funds	5,887,000	4,497,000
Total	15,475,700	15,787,600

45. CERTIFICATE OF NEED

	1998-99	1999-00
General Fund	127,800	131,500
Restricted Funds	301,000	319,000
Total	428,800	450,500

46. ADMINISTRATIVE SUPPORT

	1998-99	1999-00
General Fund	22,410,700	22,904,800
Restricted Funds	5,150,000	5,040,500
Federal Funds	57,133,000	57,451,500
Total	84,693,700	85,396,800

Any General Fund appropriation unexpended in fiscal year 1998-99 for the Children's Health Initiative Program within Administrative Support shall not lapse, but shall be carried forward into fiscal year 1999-2000, notwithstanding KRS 45.229.

TOTAL - CABINET FOR HEALTH SERVICES

	1998-99	1999-00
General Fund	863,201,600	903,916,300

Restricted Funds	369,113,500	327,881,500
Federal Funds	2,235,532,500	2,205,800,500
TOTAL	3,467,847,600	3,437,598,300

H. JUSTICE CABINET

47. JUSTICE OPERATIONS

a. Justice Administration

	1998-99	1999-00
General Fund	6,015,600	6,153,900
Restricted Funds	3,186,500	3,179,500
Federal Funds	12,791,000	12,993,000
Total	21,993,100	22,326,400

Included in the above General Fund appropriation is $1,040,500 in fiscal year 1998-99 and $1,080,500 in fiscal year 1999-2000 for operation of the State Parole Board.

Included in the above General Fund appropriation is $1,000,000 in each fiscal year to provide free civil legal services for indigents.

b. State Police

	1997-98	1998-99	1999-00
General Fund	1,158,500	61,449,100	72,782,900
Restricted Funds	499,000	6,444,000	6,487,500
Road Fund		35,000,000	30,000,000
Federal Funds		9,068,500	9,433,000
Total	1,657,500	111,961,600	118,703,400

Included in the above General Fund appropriation is $1,158,500 in fiscal year 1997-98 for maintenance of essential operations related to the implementation of KRS 237.110. It is intended that a portion of this appropriation is transferred to the appropriate Restricted Funds account within the Department of State Police to offset a current year deficit in that account.

Included in the above Restricted Funds appropriation for fiscal year 1997-98 is $499,000 for the maintenance of operations and essential services of the Department of State Police.

Included in the above General Fund appropriation is $3,457,000 in fiscal year 1999-2000 for new debt service to fund the replacement of the basic radio system, the replacement of the integrated criminal apprehension program and the upgrade of the Kentucky Accident Reporting System.

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	1998-99	1999-00
Restricted Funds	25,932,500	30,088,000

Under the provisions of the Kentucky Law Enforcement Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified police officer's annual base salary from the Law Enforcement Foundation Program Fund, to be paid to each officer in addition to the officer's regular salary as prescribed by KRS 15.460 and KRS 15.500. Included in the above appropriation is $12,183,500 in fiscal year 1998-99 and $12,482,000 in fiscal year 1998-2000 for training incentive payments pursuant to KRS 15.430 and KRS 15.440 from receipts pursuant to KRS 136.392. Also included in the above Restricted Funds appropriation, and subject to passage of enabling legislation in the 1998 Regular Session of the General Assembly, is $1,958,500 in fiscal year 1998-99 and $4,063,000 in fiscal year 1999-2000 for an increase in training incentive payments to each participant. The increase equates to $250 per qualified police officer in fiscal year 1998-99 and an additional $250 per officer in fiscal year 1999-2000 for a total of $2,750 in fiscal year 1998-99 and $3,000 in fiscal year 1999-2000 for each participant. Also subject to the passage of enabling legislation, there is provided in the appropriation above $3,792,000 in fiscal year 1998-99 and $3,884,000 in fiscal year 1999-2000 to make additional funds available to provide the pay incentive to all eligible sheriffs and deputies who qualify as well as all eligible police officers employed by a postsecondary educational institution. Also pending the passage of legislation, there is provided in the appropriation above $403,000 in fiscal year 1998-99 and $364,000 in fiscal year 1999-2000 to establish a program to certify all law enforcement officers who meet certain professional criteria outlined in proposed legislation. If funds appropriated from the Kentucky Law Enforcement

Foundation Program Fund (KLEFPF) for training incentive payments are not sufficient to ensure each participant a training incentive payment which is at least $2,750 in fiscal year 1998-99 and $3,000 in fiscal year 1999-2000, the General Assembly directs that any amounts available to KLEFPF be utilized to ensure the payment.

Also included in the appropriation above is $1,181,500 for debt service in fiscal year 1998-99 and $1,185,500 in fiscal year 1999-2000 for bonds previously-issued. New debt service in the amount of $1,980,000 in fiscal year 1999-2000 is appropriated and included above for a new Law Enforcement Basic Training Complex on the campus of Eastern Kentucky University.

Notwithstanding KRS 15.430, KRS 42.190, or KRS 136.392, the fund balance reserve shall not exceed $2,000,000 at the end of fiscal year 1997-98.

Notwithstanding KRS 15.430, KRS 42.190, or KRS 136.392, funds unexpended at the end of fiscal year 1998-99 and fiscal year 1999-2000 shall not lapse but shall be carried forward into the following fiscal year.

d. Juvenile Justice

	1997-98	1998-99	1999-00
General Fund	2,000,000	57,446,400	70,359,400
Restricted Funds		9,114,400	11,254,500
Federal Funds		15,057,000	15,057,000
Total	2,000,000	81,617,800	96,670,900

Included within the above General Fund appropriation is $2,000,000 in fiscal year 1997-98 for private child care costs incurred by the Department of Juvenile Justice. Also included within the above General Fund appropriation is $2,578,000 in fiscal year 1999-2000 for debt service for the construction of three additional juvenile detention facilities, a new maximum security facility, and expansion of the Breathitt County Detention Center.

It is intended that $69,000 in General Fund appropriation in fiscal year 1997-98 be transferred from the operating budget to the capital budget to be applied toward the scope of the capital construction project titled "40-Bed Boot Camp," authorized in Part II of this Act.

TOTAL - JUSTICE OPERATIONS

	1997-98	1998-99	1999-00
General Fund	3,158,500	124,911,100	149,296,200
Restricted Funds	499,000	44,677,400	51,009,500
Road Fund		35,000,000	30,000,000
Federal Funds		36,916,500	37,483,000
Total	3,657,500	241,505,000	267,788,700

48. CORRECTION

a. Corrections Management

	1998-99	1999-00
General Fund	6,832,200	9,756,200
Restricted Funds	271,000	161,000
Total	7,103,200	9,917,200

Included in the General Fund appropriation above is $2,473,000 in fiscal year 1999-2000 for new debt service to fund the construction of a 200-bed dorm at Blackburn Correctional Complex, Phase I Expansion at the Kentucky Correctional Institute for Women, the design and site acquisition for a medium security prison and the replacement of a water tank and water line at Northpoint Training Center.

b. Community Services and Local Facilities

	1997-98	1998-99	1999-00
General Fund	4,129,000	65,527,800	71,059,800
Restricted Funds		326,000	336,000
Federal Funds		1,053,500	1,412,000
Total	4,129,000	66,907,300	72,807,800

Included in the above General Fund appropriation is $4,129,000 in fiscal year 1997-98 for costs associated with housing additional inmates in county jails.

General Fund moneys are provided in the amount of $21,000 in fiscal year 1998-99 and $93,000 in fiscal year 1999-2000 to expand the Probation and Parole Career Ladder.

c. Adult Correctional Institutions

	1997-98	1998-99	1999-00
General Fund		162,430,800	172,180,200
Restricted Funds	2,684,900	21,848,300	22,681,500
Federal Funds		2,030,500	2,861,500
Total	2,684,900	186,309,600	197,723,200

Included in the Restricted Funds appropriation is $2,684,900 in fiscal year 1997-98 for the production of the final portion of the 1998 general issue of license plates in the Division of Correctional Industries.

d. Local Jail Support

	1998-99	1999-00
General Fund	14,568,500	14,568,500

Included in the General Fund appropriation is $888,000 in fiscal year 1998-99 and $888,000 in fiscal year 1999-2000 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $300,000 in fiscal year 1998-99 and $300,000 in fiscal year 1999-2000 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	1997-98	1998-99	1999-00
General Fund	4,129,000	249,359,300	267,564,700
Restricted Funds	2,684,900	22,445,300	23,178,500
Federal Funds		3,084,000	4,273,500
Total	6,813,900	274,888,600	295,016,700

TOTAL - JUSTICE CABINET

	1997-98	1998-99	1999-00
General Fund	7,287,500	374,270,400	416,860,900
Restricted Funds	3,183,900	67,122,700	74,188,000
Road Fund		35,000,000	30,000,000
Federal Funds		40,000,500	41,756,500
TOTAL	10,471,400	516,393,600	562,805,400

I. LABOR

49. LABOR CABINET

a. General Administration and Support

	1998-99	1999-00
General Fund	518,000	532,800
Restricted Funds	4,484,500	4,488,000
Total	5,002,500	5,020,800

b. Workplace Standards

	1998-99	1999-00
General Fund	1,780,700	1,834,500
Restricted Funds	146,921,500	148,658,000
Federal Funds	2,828,500	2,828,500
Total	151,530,700	153,321,000

c. Workers Claims

	1998-99	1999-00
Restricted Funds	14,994,000	15,637,000

d. Kentucky Occupational Safety and Health Review Commission

	1998-99	1999-00
Restricted Funds	309,000	319,500
Federal Funds	174,500	174,500
Total	483,500	494,000

TOTAL - LABOR CABINET

	1998-99	1999-00
General Fund	2,298,700	2,367,300
Restricted Funds	166,709,000	169,102,500
Federal Funds	3,003,000	3,003,000
TOTAL	172,010,700	174,472,800

50. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	1998-99	1999-00
General Fund	19,000,000	19,000,000
Restricted Funds	149,905,500	152,337,500
Total	168,905,500	171,337,500

TOTAL - LABOR

	1998-99	1999-00
General Fund	21,298,700	21,367,300
Restricted Funds	316,614,500	321,440,000
Federal Funds	3,003,000	3,003,000
TOTAL	340,916,200	345,810,300

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

51. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. General Administration and Support

	1998-99	1999-00
General Fund	8,703,200	9,026,200
Restricted Funds	352,000	435,500
Federal Funds	2,065,000	2,166,000
Total	11,120,200	11,627,700

b. Environmental Protection

	1998-99	1999-00
General Fund	21,572,200	22,108,800
Restricted Funds	20,196,000	21,336,000
Federal Funds	18,731,500	16,191,500
Total	60,499,700	59,636,300

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

c. Natural Resources

	1998-99	1999-00
General Fund	12,075,700	12,285,300
Restricted Funds	5,522,500	5,053,500
Federal Funds	2,626,500	2,627,500
Total	20,224,700	19,966,300

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of this amount in either fiscal year is appropriated when, upon recommendation of the State Budget Director, the Secretary of the Finance and Administration Cabinet approves the expenditure by written order, subject to the conditions and procedures provided in this Act.

Notwithstanding KRS 262.640, included in the above appropriations is a minimum of $219,000 in fiscal year 1998-99 and $181,000 in fiscal year 1999-2000 in Restricted Funds for the operation of the Division of Conservation.

d. Surface Mining Reclamation and Enforcement

	1998-99	1999-00
General Fund	9,922,200	10,188,100
Restricted Funds	5,793,000	5,988,000
Federal Funds	15,808,500	16,196,500
Total	31,523,700	32,372,600

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees per KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

e. Abandoned Mine Lands Reclamation Projects

	1998-99	1999-00
Federal Funds	22,456,000	22,456,000

The above appropriation represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	1998-99	1999-00
General Fund	52,273,300	53,608,400
Restricted Funds	31,863,500	32,813,000
Federal Funds	61,687,500	59,637,500
TOTAL	145,824,300	146,058,900

52. KENTUCKY RIVER AUTHORITY

	1998-99	1999-00
General Fund	359,000	369,000
Restricted Funds	1,511,000	1,750,000
Total	1,870,000	2,119,000

Included in the above Restricted Funds appropriation is $194,000 in fiscal year 1998-99 and $388,000 in fiscal year 1999-2000 for debt service for $2,000,000 in previously-authorized bonds and $2,000,000 in new bond authorization.

53. ENVIRONMENTAL QUALITY COMMISSION

	1998-99	1999-00
General Fund	251,100	249,800
Restricted Funds	4,000	2,000
Total	255,100	251,800

54. KENTUCKY NATURE PRESERVES COMMISSION

	1998-99	1999-00
General Fund	800,200	745,300
Restricted Funds	637,500	612,500
Federal Funds	25,000	25,000
Total	1,462,700	1,382,800

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	1998-99	1999-00
General Fund	53,683,600	54,972,500
Restricted Funds	34,016,000	35,177,500
Federal Funds	61,712,500	59,662,500
TOTAL	149,412,100	149,812,500

K. PERSONNEL CABINET

55. PERSONNEL CABINET

a. General Operations

	1998-99	1999-00
General Fund	3,309,400	3,297,100
Restricted Funds	5,358,500	5,741,000
Total	8,667,900	9,038,100

Notwithstanding KRS 18A.015(2), 18A.015(3), and 18A.015(4), the Personnel Cabinet shall collect $2.00 per month per eligible employee in fiscal year 1998-99 and $2.25 per month per eligible employee in fiscal year 1999-2000 from the budgeted premium for life and health insurance from all employers of state employees defined in KRS 18A.225(1)(b) for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's life and health insurance programs.

b. Public Employees Deferred Compensation Authority

	1997-98	1998-99	1999-00
Restricted Funds	350,000	3,552,000	3,692,500

c. Workers' Compensation Benefits and Reserve

	1998-99	1999-00
Restricted Funds	16,872,000	17,666,000

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary funds are appropriated, subject to the conditions and procedures provided in this Act.

TOTAL - PERSONNEL CABINET

	1997-98	1998-99	1999-00
General Fund		3,309,400	3,297,100
Restricted Funds	350,000	25,782,500	27,099,500
TOTAL	350,000	29,091,900	30,396,600

L. POSTSECONDARY EDUCATION

56. COUNCIL ON POSTSECONDARY EDUCATION

	1998-99	1999-00
General Fund	64,025,200	109,655,400
Federal Funds	4,057,000	4,063,500
Total	68,082,200	113,718,900

It is the intent of the General Assembly that the universities participating in the Regional Postsecondary Education Centers (Central - Western Kentucky University; Northeast - Morehead State University; South - Western Kentucky University; Southeast - Eastern Kentucky University; and West - Murray State University) funded through the Physical Facilities Trust Fund and the Technology Initiative Trust Fund shall analyze student and community needs within their regional service areas to determine the most appropriate facilities to meet the academic and student program needs of the region. Each university shall receive approval from the Council on Postsecondary Education regarding the use of the Postsecondary Education Centers to meet the education and facility needs of their respective regions. It is the intent of the General Assembly that the Council on Postsecondary Education encourage each of the universities identified above to examine opportunities for collaboration in the planning, design, and utilization of the facilities in conjunction with the Kentucky Community and Technical College System.

The Postsecondary Education Improvement Act of 1997 fundamentally changed the funding mechanism for the postsecondary enterprise in the Commonwealth of Kentucky. In recognition that the limited time between the enactment of the Postsecondary Education Improvement Act of 1997 and the commencement of the 1998-2000 biennial budget process did not allow for sufficient time for the full consideration of programs not incorporated in the trust funds recommendation, the above General Fund appropriation for the Council on Postsecondary Education includes the following program items. Included in the above General Fund appropriation is $450,000 in fiscal year 1999-2000 to support a full complement of faculty and operational costs associated with the University of Kentucky College of Engineering's implementation of undergraduate engineering programs in Paducah. Included in the above General Fund appropriation is $1,470,000 in fiscal year 1998-99 and $1,500,000 in fiscal year 1999-2000 to replace Robinson Forest Trust funds previously used to support the Lees College Branch of Hazard Community College. Included in the above General Fund appropriation is $182,600 in each fiscal year to expand the services of the Labor Management Center at the University of Louisville's College of Business and Public Administration. Included in the above General Fund appropriation is $180,000 in fiscal year 1998-99 and $349,900 in fiscal year 1999-2000 to expand the University of Louisville's Family Residency Program in Glasgow. Included in the above General Fund appropriation is $30,000 in fiscal year 1998-99 for an analysis of student demand and the feasibility of a collaborative social work program at the

University of Louisville with one or more institutions in the Louisville metropolitan area. This study will identify funding sources if such a program is deemed appropriate.

Included in the above General Fund appropriation is $125,000 in fiscal year 1998-99 and $180,000 in fiscal year 1999-2000 to be distributed to Murray State University for the purpose of making lease purchase payments on the Crisp Center.

Included in the above General Fund appropriation is $1,026,000 in fiscal year 1998-99 and $1,664,400 in fiscal year 1999-2000 to fund the Osteopathic Medicine Scholarship Program to provide scholarships to students of the Pikeville College of Osteopathic Medicine in an amount which will reduce the tuition cost to these students to the same rate paid by in-state medical students at the University of Kentucky or the University of Louisville.

Included in the above General Fund appropriation is $215,000 in fiscal year 1998-99 and $221,500 in fiscal year 1999-2000 for the Kentucky Commission on Community Volunteerism and Service, which is attached to the Council on Postsecondary Education for administrative purposes.

Included in the above General Fund appropriation is $51,000,000 in fiscal year 1998-99 and $95,000,000 in fiscal year 1999-2000 for the Strategic Investment and Incentive Funding Program as established by the Postsecondary Improvement Act of 1997. The appropriation shall be made to each of the following trust funds in the amounts listed below for the purposes and uses established by the Postsecondary Improvement Act of 1997.

a. Research Challenge Trust Fund

	1998-99	1999-00
General Fund	16,000,000	16,000,000

Included in the above General Fund appropriation to the Research Challenge Trust Fund is $10,000,000 in each fiscal year for debt service to support the issuance of taxable bonds by the State Property and Buildings Commission for the purpose of establishing an endowment in furtherance of the goals established by the Postsecondary Improvement Act of 1997.

b. Regional University Excellence Trust Fund

	1998-99	1999-00
General Fund	7,000,000	7,000,000

Included in the above General Fund appropriation to the Regional University Excellence Trust Fund is $1,000,000 in each fiscal year for debt service to support the issuance of taxable bonds by the State Property and Buildings Commission for the purpose of establishing an endowment in furtherance of the goals established by the Postsecondary Improvement Act of 1997.

c. Technology Initiative Trust Fund

	1998-99	1999-00
General Fund	8,000,000	12,000,000

Included in the above fiscal year 1999-2000 General Fund appropriation to the Technology Initiative Trust Fund is debt service as indicated below to support the issuance of bonds by the State Property and Buildings Commission to partially finance the planning, design, and construction of the Kentucky Community and Technical College System (KCTCS) projects identified below and authorized in Part II of this Act: Central Regional Postsecondary Education Center - debt service of $478,000; Northeast Regional Postsecondary Education Center - debt service of $478,000; South Regional Postsecondary Education Center - debt service of $336,000; Southeast Regional Postsecondary Education Center - debt service of $478,000; West Regional Postsecondary Education Center - debt service of $478,000; and KCTCS Automated Administrative System - debt service of $147,000.

Also included in the above fiscal year 1999-2000 General Fund appropriation to the Technology Initiative Trust Fund is $5,548,000 for debt service to support the issuance of bonds by the State Property and Buildings Commission for technology projects to be identified by Council on Postsecondary Education as necessary for the implementation of the Commonwealth Virtual University.

d. Physical Facilities Trust Fund

	1998-99	1999-00
General Fund		29,000,000

Included in the above fiscal year 1999-2000 General Fund appropriation to the Physical Facilities Trust Fund is debt service as indicated below to support the issuance of bonds by the State Property and Buildings Commission to finance the planning, design and construction of the projects and capital construction pools identified below and authorized in Part II of this Act: Northern Kentucky University (NKU) - Natural Science Building - debt service of $3,466,000; Morehead State University (MoSU) - Breckinridge Hall Renovation - debt service of $1,330,000; University of Kentucky (UK) - Mechanical Engineering Building - debt service of $1,862,000; Murray State University (MuSU) - Carr Health/Business/Education - debt service of $967,000; Eastern Kentucky University (EKU) - Student Service/Classroom Building - debt service of $1,900,000; Kentucky State University (KSU) - Student Center Renovation/Expansion - debt service of $785,000; University of Louisville (UL) - Research Building (Belknap Campus) - debt service of $3,043,000; Western Kentucky University (WKU) - Postsecondary Education Improvement Act of 1997 Facility - debt service of $1,758,000; UK - Aging/Allied Health Building Phase II - debt service of $1,900,000; KCTCS - Deferred Maintenance and Government Mandates Pool - debt service of $420,000; Council on Postsecondary Education (CPE) - Deferred Maintenance and Government Mandates Pool - debt service of $1,958,000; CPE - Research Equipment and Lab Replacement or Acquisition Pool - debt service of $4,856,000; KCTCS - Automated Administrative System - debt service of $166,000; KCTCS - Central Regional Postsecondary Education Center - Phase I - debt service of $541,000; KCTCS - Hazard Community College Classroom Building Phase II - debt service of $416,000; KCTCS - Kentucky Tech College of Arts and Crafts - debt service of $265,000; KCTCS - Clinton County Regional Technology Center - debt service of $340,000; KCTCS - Danville Regional Technology Center - Phase I - debt service of $448,000; KCTCS - Madisonville Community College Science/Technical Classroom Building - debt service of $279,000; KCTCS - Maysville Community College/Kentucky Tech New Technology Center - debt service of $164,000; KCTCS - Shelby County New Kentucky Tech/Jefferson Community College Extension - debt service of $687,000; KCTCS - Somerset Community College/Kentucky Tech Complex - debt service of $654,000; KCTCS - South Regional Postsecondary Education Center - Phase I - debt service of $258,000; and KCTCS - Southeast Regional Postsecondary Education Center Phase I - debt service of $524,000.

e. Workforce Development Trust Fund

	1998-99	1999-00
General Fund	6,000,000	6,000,000

Funding is provided to further cooperative efforts among the community colleges and the technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs. In addition, funding may be used for a base funding equity adjustment for the technical institutions formerly a part of the Kentucky Tech System, if necessary, pursuant to an analysis of funding equity by the Council on Postsecondary Education.

f. Student Financial Aid and Advancement Trust Fund

	1998-99	1999-00
General Fund	14,000,000	25,000,000

Included in the above appropriation is $14,000,000 in fiscal year 1998-99 and $15,000,000 in fiscal year 1999-2000 to fully fund the College Access Program, the Kentucky Tuition Grants Program and the Teacher Scholarship Program administered by the Kentucky Higher Education Assistance Authority. In addition, included in the above appropriation is $10,000,000 in fiscal year 1999-2000 to begin implementation of a new merit based financial aid program pursuant to enabling legislation to be enacted by the 1998 General Assembly.

57. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	1997-98	1998-99	1999-00
General Fund		30,603,200	30,603,200
Restricted Funds	452,000	13,885,000	14,490,500
Total	452,000	44,488,200	45,093,700

Included in the above General Fund appropriation is $19,452,700 in fiscal year 1998-99 and $19,452,700 in fiscal year 1999-2000 for College Access Program (CAP) grants. Nothing in the foregoing shall be construed to limit the Authority's capability to use these funds to match Federal Funds, make grant awards, or promulgate administrative regulations that conform to requirements of federal laws and regulations for full participation in federally-funded student financial assistance programs.

The General Fund appropriation shall be used solely for the purpose of making awards to students.

Any General Fund appropriation unexpended in fiscal years 1997-98 or 1998-99 to the Kentucky Higher Education Assistance Authority shall not lapse but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

58. EASTERN KENTUCKY UNIVERSITY

	1998-99	1999-00
General Fund	63,825,700	65,726,700
Restricted Funds	85,446,100	88,145,900
Federal Funds	21,414,800	21,414,800
Total	170,686,600	175,287,400

Included in the above General Fund appropriation is $5,309,600 in fiscal year 1998-99 and $5,317,400 in fiscal year 1999-2000 for debt service for previously-issued bonds.

59. KENTUCKY STATE UNIVERSITY

	1998-99	1999-00
General Fund	20,364,100	20,872,800
Restricted Funds	15,893,000	16,386,000

Federal Funds	11,617,300	11,942,500
Total	47,874,400	49,201,300

Included in the above General Fund appropriation is $2,223,800 in fiscal year 1998-99 and $2,224,600 in fiscal year 1999-2000 for debt service for previously-issued bonds.

60. MOREHEAD STATE UNIVERSITY

	1998-99	1999-00
General Fund	36,439,600	37,399,700
Restricted Funds	34,597,000	36,164,000
Federal Funds	33,173,500	35,555,000
Total	104,210,100	109,118,700

Included in the above General Fund appropriation is $2,129,000 in fiscal year 1998-99 and $2,128,400 in fiscal year 1999-2000 for debt service for previously-issued bonds.

61. MURRAY STATE UNIVERSITY

	1998-99	1999-00
General Fund	45,409,300	44,739,100
Restricted Funds	47,564,500	49,372,000
Federal Funds	6,819,000	7,214,500
Total	99,792,800	101,325,600

Included in the above General Fund appropriation is $3,392,700 in fiscal year 1998-99 and $1,546,000 in fiscal year 1999-2000 for debt service for previously-issued bonds.

62. NORTHERN KENTUCKY UNIVERSITY

	1998-99	1999-00
General Fund	33,902,900	34,721,700
Restricted Funds	46,341,600	48,500,800
Federal Funds	4,761,500	4,761,500
Total	85,006,000	87,984,000

Included in the above General Fund appropriation is $5,054,400 in fiscal year 1998-99 and $5,065,400 in fiscal year 1999-2000 for debt service for previously-issued bonds.

63. UNIVERSITY OF KENTUCKY

	1998-99	1999-00
General Fund	285,626,700	289,530,300
Restricted Funds	683,978,500	703,883,000
Federal Funds	81,237,500	82,831,000
Total	1,050,842,700	1,076,244,300

Included in the above General Fund appropriation is $12,701,500 in fiscal year 1998-99 and $8,647,700 in fiscal year 1999-2000 for debt service for previously-issued bonds.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 1998. Allotment of this appropriation is contingent upon certification by the Council on Postsecondary Education that necessary conditions have been met.

64. UNIVERSITY OF LOUISVILLE

	1998-99	1999-00
General Fund	157,537,500	162,697,500
Restricted Funds	222,614,500	229,174,500
Federal Funds	25,121,000	25,121,500
Total	405,273,000	416,993,500

Included in the above General Fund appropriation is $11,363,100 in fiscal year 1998-99 and $11,366,700 in fiscal year

1999-2000 for debt service for previously-issued bonds. Also included in the above General Fund appropriation is $15,948,500 in fiscal year 1998-99 and $16,506,700 in fiscal year 1999-2000 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement.

The General Fund appropriation related to the Quality and Charity Care Trust Agreement in the first year of the biennium shall continue into the second year for this purpose, notwithstanding KRS 45.229. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 1999-2000.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 1998. Allotment of this appropriation is contingent upon certification by the Council on Postsecondary Education that necessary conditions have been met.

65. WESTERN KENTUCKY UNIVERSITY

	1998-99	1999-00
General Fund	57,972,500	59,489,500
Restricted Funds	62,711,500	64,491,500
Federal Funds	13,695,000	13,695,000
Total	134,379,000	137,676,000

Included in the above General Fund appropriation is $3,932,200 in fiscal year 1998-99 and $3,936,100 in fiscal year 1999-2000 for debt service for previously-issued bonds.

66. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	1998-99	1999-00
General Fund	155,729,900	161,090,400
Restricted Funds	88,648,500	91,035,500
Federal Funds	37,794,000	38,271,500
Total	282,172,400	290,397,400

Included in the above General Fund appropriation is $10,613,400 in fiscal year 1998-99 and $10,645,900 in fiscal year 1999-2000 for debt service for previously-issued bonds.

TOTAL - POSTSECONDARY EDUCATION

	1997-98	1998-99	1999-00
General Fund		951,436,600	1,016,526,300
Restricted Funds	452,000	1,301,680,200	1,341,643,700
Federal Funds		239,690,600	244,870,800
TOTAL	452,000	2,492,807,400	2,603,040,800

M. PUBLIC PROTECTION AND REGULATION CABINET

67. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	1998-99	1999-00
General Fund	399,900	411,900
Restricted Funds	1,420,500	1,445,500
Federal Funds	351,000	351,000
Total	2,171,400	2,208,400

68. ALCOHOLIC BEVERAGE CONTROL

	1997-98	1998-99	1999-00
General Fund	340,500	2,526,900	2,622,400
Restricted Funds		802,500	787,500
Total	340,500	3,329,400	3,409,900

The Department shall receive funds from the Department of Agriculture and cooperate with the Department of Agriculture in order to implement laws relating to the sale and use of tobacco products, pursuant to KRS 438.330.

69. FINANCIAL INSTITUTIONS

	1998-99	1999-00
Restricted Funds	7,056,000	7,307,500

70. KENTUCKY RACING COMMISSION

	1997-98	1998-99	1999-00
General Fund	350,000	1,419,100	1,356,900
Restricted Funds		14,017,000	13,719,500
Total	350,000	15,436,100	15,076,400

Notwithstanding KRS 230.217(3), no guaranteed General Fund support for an annual Breeders' Award Fund beginning balance of $3,750,000 is provided in each fiscal year.

71. HOUSING, BUILDINGS AND CONSTRUCTION

	1998-99	1999-00
General Fund	3,480,500	3,576,800
Restricted Funds	25,393,500	27,426,500
Total	28,874,000	31,003,300

Under the provisions of the Firefighters Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified firefighter's annual base salary from the Firefighters Foundation Program Fund, to be paid to each firefighter in addition to his regular salary as prescribed by KRS 95A.250. The supplemental payments per qualified professional firefighters shall increase to $2,750 in fiscal year 1998-99 and $3,000 in fiscal year 1999-2000. As prescribed by KRS 95A.262, an annual allotment is provided for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and all other organized volunteer fire departments recognized by the Department of Housing, Buildings and Construction as fire departments operated and maintained on a nonprofit basis. The State Aid Grants shall increase to $6,500 in fiscal year 1998-99 and $7,500 in fiscal year 1999-2000. Notwithstanding KRS 136.392, the power of the Secretary of the Revenue Cabinet to adjust the insurance surcharge rate is suspended. Notwithstanding KRS 95A.220(2), all funds remaining at the end of fiscal year 1998-99 and fiscal year 1999-2000 in accounts established pursuant to KRS 95A.220(1) and KRS 95A.262 shall not lapse.

72. INSURANCE

a. General Operations

	1998-99	1999-00
Restricted Funds	14,051,000	14,639,500

b. Health Purchasing Alliance

	1998-99	1999-00
Restricted Funds	8,523,000	8,567,000
TOTAL - INSURANCE	22,574,000	23,206,500

73. MINES AND MINERALS

	1998-99	1999-00
General Fund	10,209,300	9,895,400
Restricted Funds	810,000	810,000
Federal Funds	629,500	591,000
Total	11,648,800	11,296,400

Notwithstanding KRS 353.590, the following fee shall be charged: oil gas permit transfer-$25.

74. PUBLIC ADVOCACY

	1998-99	1999-00
General Fund	14,847,100	15,234,100
Restricted Funds	3,689,000	3,895,000
Federal Funds	1,075,000	1,128,000
Total	19,611,100	20,257,100

75. PUBLIC SERVICE COMMISSION

	1998-99	1999-00
General Fund	8,877,400	8,656,400
Restricted Funds	22,500	22,500
Federal Funds	219,000	229,000
Total	9,118,900	8,907,900

Included in the above General Fund appropriation is $109,000 in fiscal year 1999-2000 for debt service for the issuance of additional bonds for the new office building authorized by the 1996 General Assembly.

76. SECRETARY

a. General Operations

	1998-99	1999-00
Restricted Funds	1,483,000	1,554,000

b. Petroleum Storage Tank Environmental Assurance Fund

	1998-99	1999-00
Restricted Funds	40,353,500	40,830,500
TOTAL - SECRETARY	41,836,500	42,384,500

77. BOARD OF TAX APPEALS

	1998-99	1999-00
General Fund	410,200	422,000

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	1997-98	1998-99	1999-00
General Fund	690,500	42,170,400	42,175,900
Restricted Funds		117,621,500	121,005,000
Federal Funds		2,274,500	2,299,000
TOTAL	690,500	162,066,400	165,479,900

N. REVENUE

78. REVENUE CABINET

	1998-99	1999-00
General Fund	58,147,900	60,236,900
Road Fund	1,352,000	1,352,000
Restricted Funds	2,928,000	2,722,000
Federal Funds	40,000	40,000
Total	62,467,900	64,350,900

Notwithstanding KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 1998-2000 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, KRS 42.190, and KRS 95A.220 in fiscal year 1998-99 and fiscal year 1999-2000. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carry forwards from fiscal years 1998-99 and 1999-2000 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax programs within the Revenue Cabinet and are to be used exclusively for that purpose. In accordance with the provisions of KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account except that the first $100,000 shall be deposited exclusively to the General Fund.

Notwithstanding KRS 365.390, included in the above Restricted Funds appropriation is $111,000 in fiscal year 1998-99 and $110,500 in fiscal year 1999-2000 from the accumulated balance in the Cigarette Enforcement Fund account for the administrative activities of the Revenue Cabinet.

Notwithstanding KRS 136.180, included in the above Restricted Funds appropriation is $189,000 in fiscal year 1998-99 and $89,500 in fiscal year 1999-2000 from the accumulated balance in the Public Service Corporation Assessment Fund account for the administrative activities of the Revenue Cabinet.

79. PROPERTY VALUATION ADMINISTRATORS

	1998-99	1999-00

General Fund	21,402,000	22,472,500
Restricted Funds	2,387,500	2,549,500
Total	23,789,500	25,022,000

TOTAL - REVENUE CABINET

	1998-99	1999-00
General Fund	79,549,900	82,709,400
Road Fund	1,352,000	1,352,000
Restricted Funds	5,315,500	5,271,500
Federal Funds	40,000	40,000
TOTAL	86,257,400	89,372,900

O. TOURISM DEVELOPMENT CABINET

80. OFFICE OF THE SECRETARY

	1998-99	1999-00
General Fund	1,232,800	1,276,100

Included in the General Fund appropriation is $270,000 in each fiscal year for Outdoor Drama Grants.

81. BREAKS INTERSTATE PARK

	1997-98	1998-99	1999-00
General Fund	30,000	200,000	200,000

An appropriation up to $200,000 in each fiscal year is provided contingent upon the Commonwealth of Virginia providing an appropriation which would be matched dollar for dollar up to the maximum amount. Any portion not matched by the Commonwealth of Virginia shall lapse to the General Fund at the close of each fiscal year.

82. TRAVEL DEVELOPMENT

	1998-99	1999-00
General Fund	6,992,400	7,177,800
Restricted Funds	4,000	4,000
Total	6,996,400	7,181,800

Included in the General Fund appropriation is $2,592,000 in fiscal year 1998-99 and $2,655,000 in fiscal year 1999-2000 for the Comprehensive Advertising Contract and $800,000 in each fiscal year for the Local and Regional Matching Funds Program.

83. PARKS

	1997-98	1998-99	1999-00
General Fund	1,837,000	26,751,800	27,688,600
Restricted Funds		44,483,000	45,684,500
Total	1,837,000	71,234,800	73,373,100

84. KENTUCKY HORSE PARK

	1998-99	1999-00
General Fund	1,631,500	1,632,000
Restricted Funds	3,859,000	3,982,000
Total	5,490,500	5,614,000

85. KENTUCKY STATE FAIR BOARD

	1998-99	1999-00
General Fund	407,000	407,000
Restricted Funds	26,129,000	27,702,000
Total	26,536,000	28,109,000

Included in the Restricted Funds appropriation is $371,000 in each year of the biennium for debt service for Project 55.

Included in the General Fund appropriation is $407,000 in each year of the biennium for the North American International Livestock Exposition.

86. FISH AND WILDLIFE RESOURCES

	1998-99	1999-00
Restricted Funds	23,262,000	24,492,500
Federal Funds	7,164,000	7,331,500
Total	30,426,000	31,824,000

TOTAL-TOURISM DEVELOPMENT CABINET

	1997-98	1998-99	1999-00
General Fund	1,867,000	37,215,500	38,381,500
Restricted Funds		97,737,000	101,865,000
Federal Funds		7,164,000	7,331,500
TOTAL	1,867,000	142,116,500	147,578,000

P. TRANSPORTATION CABINET

87. TRANSPORTATION CABINET

a. Air Transportation

	1998-99	1999-00
General Fund	2,201,000	2,267,000
Restricted Funds	29,500	30,500
Federal Funds	359,000	359,000
Total	2,589,500	2,656,500

b. Revenue Sharing

	1998-99	1999-00
Road Fund	204,091,500	208,717,000

1. Included in the above Road Fund appropriation is $77,188,000 in fiscal year 1998-99 and $78,946,000 in fiscal year 1999-2000 for the County Road Aid program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $54,900 in fiscal year 1998-99 and $56,700 in fiscal year 1999-2000 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included in the above Road Fund appropriation is $93,573,000 in fiscal year 1998-99 and $95,702,000 in fiscal year 1999-2000 for the Rural Secondary program in accordance with KRS 177.320 to 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $66,600 in fiscal year 1998-99 and $68,800 in fiscal year 1999-2000 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

3. Included in the above Road Fund appropriation is $32,455,500 in fiscal year 1998-99 and $33,194,000 in fiscal year 1999-2000 for the Municipal Road Aid program in accordance with KRS 177.365 to 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $23,100 in fiscal year 1998-99 and $23,900 in fiscal year 1999-2000 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $875,000 in each fiscal year for the Energy Recovery Road Fund in accordance with KRS 177.977 to 177.981.

c. Rail Transportation

	1998-99	1999-00
General Fund	69,500	72,000

The above General Fund appropriation is for the Kentucky Railroad Commission.

d. Public Transportation

	1998-99	1999-00
General Fund	3,916,000	4,007,000
Restricted Funds	48,038,500	50,068,500
Federal Funds	4,996,500	5,102,000
Total	56,951,000	59,177,500

Included in the above General Fund appropriation is $2,500,000 in each fiscal year for nonpublic school transportation.

e. Highways

1998-99	1999-00

Restricted Funds	63,328,000	27,065,000
Federal Funds	399,599,500	382,602,500
Road Fund	531,350,500	562,965,500
Bond Funds	100,000,000	105,000,000
Total	1,094,278,000	1,077,633,000

1. Included in the above Road Fund appropriation is $230,749,500 in fiscal year 1998-99 and $259,983,000 in fiscal year 1999-2000 for the State Funded Construction Program.

Included in the State Funded Construction Program is $61,300,000 in fiscal year 1998-99 and $63,000,000 in fiscal year 1999-2000 from the Road Fund for the State Resurfacing Program.

Included in the State Funded Construction Program is $2,500,000 in fiscal year 1998-99 and $2,000,000 in fiscal year 1999-2000 from the Road Fund for the County Bridge Replacement Program.

Included in the State Funded Construction Program is $450,000 in each fiscal year from the Road Fund for the Specialized Contracts account.

Included in the State Funded Construction Program is $126,499,500 in fiscal year 1998-99 and $131,273,000 in fiscal year 1999-2000 from the Road Fund for state construction projects in the 1998-2000 Biennial Highway Construction Program.

2. Included in the above Bond Funds appropriation in fiscal year 1999-2000 is $5,000,000 in Investment Income Earnings from the issuance of the $200,000,000 in Economic Development Road Revenue Bonds authorized herein.

3. Notwithstanding KRS 176.460(1), projects in the enacted 1998-99 Biennial Highway Construction Program listed as fiscal year 1997-98 are so listed in order to continue their current authorization into the 1998-2000 biennium, and are reauthorized in this Act.

Included in the State Funded Construction Program is $40,000,000 in each fiscal year for the Highway Construction Contingency Account.

4. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $300,000 in fiscal year 1998-99 and $310,000 in fiscal year 1999-2000 for the Kentucky Transportation Center.

5. Notwithstanding KRS 45.229, any unexpended balance remaining at the close of the 1997-98 fiscal year in the Snow and Ice Removal Reserve Fund, as reestablished by the 1996 General Assembly, shall not lapse, but shall continue into fiscal year 1998-99 for the same purpose.

No funds shall be expended from the Snow and Ice Removal Reserve Fund until the Transportation Cabinet's cumulative snow and ice removal expenditures exceed $11,500,000 in any fiscal year of the 1998-2000 biennium. If this provision is implemented, the Secretary of the Transportation Cabinet shall certify to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation the documented need and usage of this fund.

Notwithstanding KRS 45.229, any unexpended balance remaining in the Snow and Ice Removal Reserve Fund at the close of the 1998-99 fiscal year shall not lapse, but shall continue into fiscal year 1999-2000.

6. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,000,000 in each fiscal year from the sale of surplus equipment to purchase new highway equipment.

7. Included in the above Restricted Funds appropriation is $12,877,400 in fiscal year 1998-99 in Investment Income Earnings from previously authorized Economic Development Road Revenue Bonds.

f. Vehicle Regulation.

	1997-98	1998-99	1999-00
Restricted Funds		2,472,500	2,572,000
Federal Funds		1,500,000	1,500,000
Road Fund	2,300,000	28,246,000	29,304,000
Total	2,300,000	32,218,500	33,376,000

g. Debt Service

	1998-99	1999-00
Road Fund	153,027,500	168,633,500

1. Included in the above Road Fund appropriation is $14,589,500 in fiscal year 1998-99 and $3,478,000 in fiscal year 1999-2000 for toll road lease rental payments.

2. Included in the above Road Fund appropriation is $43,670,000 in fiscal year 1998-99 and $53,447,000 in fiscal year 1999-2000 for Resource Recovery Road lease rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to

meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $94,768,000 in fiscal year 1998-99 and $92,714,500 in fiscal year 1999-2000 for Economic Development Road lease rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Included in the above Road Fund appropriation is $18,994,000 in fiscal year 1999-2000 for Economic Development Road lease rental payments to the Turnpike Authority of Kentucky relating to projects financed by $200,000,000 in Economic Development Road Revenue Bonds hereby authorized by the General Assembly to be issued in the 1998-2000 fiscal biennium for the payment of the cost of the Economic Development Road Projects.

5. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

6. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 1998-2000 biennium.

h. General Administration and Support

	1998-99	1999-00
Restricted Funds	21,198,000	22,142,000
Road Fund	56,916,500	63,507,000
Total	78,114,500	85,649,000

Included in the above Road Fund appropriation is $6,468,000 in fiscal year 1999-2000 for debt service for newly-authorized bonds to construct a new Transportation Cabinet Office Building.

i. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 1998, shall not lapse, and shall carry forward to fiscal year 1998-99 and remain available throughout the 1998-2000 biennium.

TOTAL - TRANSPORTATION CABINET

	1997-98	1998-99	1999-00
General Fund		6,186,500	6,346,000
Restricted Funds		135,066,500	101,878,000
Federal Funds		406,455,000	389,563,500
Road Fund	2,300,000	973,632,000	1,033,127,000
Bond Funds		100,000,000	105,000,000
TOTAL	2,300,000	1,621,340,000	1,635,914,500

Q. WORKFORCE DEVELOPMENT CABINET

88. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	1998-99	1999-00
General Fund	1,802,000	1,853,500
Restricted Funds	5,247,500	5,474,000
Federal Funds	5,722,500	2,012,500
Total	12,772,000	9,340,000

89. STATE BOARD FOR ADULT AND TECHNICAL EDUCATION

	1998-99	1999-00
General Fund	30,000	30,500

90. TECHNICAL EDUCATION

	1997-98	1998-99	1999-00
General Fund	294,000	18,795,100	19,065,700
Restricted Funds		18,654,500	19,416,000
Federal Funds		15,650,000	15,200,000
Total	294,000	53,099,600	53,681,700

Included in the above General Fund appropriation is $1,873,000 in each fiscal year for equipment procurement.

91. ADULT EDUCATION AND LITERACY

	1998-99	1999-00
General Fund	12,411,200	12,779,400
Restricted Funds	874,000	915,500
Federal Funds	8,243,000	8,643,000
Total	21,528,200	22,337,900

92. VOCATIONAL REHABILITATION

	1998-99	1999-00
General Fund	9,421,100	9,672,800
Restricted Funds	2,391,500	2,406,500
Federal Funds	37,651,500	39,069,500
Total	49,464,100	51,148,800

93. DEPARTMENT FOR THE BLIND

	1998-99	1999-00
General Fund	1,883,700	1,952,600
Restricted Funds	3,275,000	3,168,000
Federal Funds	6,871,000	6,457,500
Total	12,029,700	11,578,100

94. STATE BOARD FOR PROPRIETARY EDUCATION

	1998-99	1999-00
Restricted Funds	110,500	116,000

95. JOB TRAINING COORDINATING COUNCIL

	1998-99	1999-00
Federal Funds	132,500	139,000

96. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	1998-99	1999-00
General Fund	4,313,500	4,530,500

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

97. TRAINING AND REEMPLOYMENT

	1998-99	1999-00
Restricted Funds	17,500	17,500
Federal Funds	36,807,000	40,493,000
Total	36,824,500	40,510,500

98. EMPLOYMENT SERVICES

	1998-99	1999-00
General Fund	581,900	599,100
Restricted Funds	5,889,500	6,021,000
Federal Funds	298,008,000	302,773,000
Total	304,479,400	309,393,100

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs.

Included in the above Restricted Funds appropriation is $4,389,500 in fiscal year 1998-99 and $4,521,000 in fiscal year 1999-2000 which shall be transferred from the Cabinet for Families and Children to provide job placement and training services to Temporary Assistance for Needy Families (TANF) recipients through a contractual agreement.

There is appropriated out of the Federal Funds made available to Kentucky under Section 903 of the Social Security Act, as amended, the sum of $1,500,000 during the 1998-2000 biennium to be used under the direction of the Department for Employment Services for the purpose of administration of its unemployment compensation law and public employment offices.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	1997-98	1998-99	1999-00
General Fund	294,000	49,238,500	50,484,100
Restricted Funds		36,460,000	37,534,500
Federal Funds		409,085,500	414,787,500
TOTAL	294,000	494,784,000	502,806,100

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 1998-2000 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	1998-99	1999-00
1. Attorney General		
a. Franklin County - Lease		
2. Unified Prosecutorial System		
a. Jefferson County - Lease		
3. Department of Military Affairs		
a. Environmental Pool		
Federal Funds	771,000	957,000
Investment Income	50,000	50,000
Total	821,000	1,007,000
b. Facilities Building - Reauthorization		
c. Maintenance Pool - Bluegrass Station		
Restricted Funds	762,000	1,324,000
d. Major Maintenance Pool		
Investment Income	950,000	950,000
e. Re-Roof Building 6 (4 Bays) - Bluegrass Station		
Restricted Funds	749,000	
f. Training Complex Development, Phase III		
Federal Funds - Additional		5,176,000
g. Aircraft Maintenance Pool		
Investment Income	300,000	300,000
h. Emergency Operations Center (EOC) Automation Upgrade		
Federal Funds	2,395,000	
i. Two-Way Communications for Statewide Emergency Responses		
Bond Funds	1,200,000	
4. Department of Local Government		
a. Local Match Participation Program for Flood Control		
Bond Funds	5,000,000	
5. Kentucky Retirement Systems		
a. Enhanced Imaging Processor		
Restricted Funds	348,000	
b. Franklin County - Lease		

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit	1998-99	1999-00
1. Economic Development Projects		
a. Economic Development Bond Pool		
Reauthorization		
Bond Funds - Additional	7,000,000	

Notwithstanding KRS 154.12-100(6), the amounts shown above reflect project amounts.

C. EDUCATION

Budget Unit	1998-99	1999-00
1. Department of Education		
a. Kentucky School for the Blind - Roof Replacement		
Capital Construction Surplus	282,000	
b. Maintenance Pool		
General Fund		1,200,000

Interim funding may be advanced from the Capital Construction and Equipment Purchase Contingency Account during fiscal year 1998-99 for critical projects pending appropriate approval from the Secretary of the Finance and Administration Cabinet and review by the Capital Projects and Bond Oversight Committee. Any moneys so advanced shall be repaid from the fiscal year 1999-2000 appropriation for the maintenance pool.

c. Jackson County Area Vocational School
Reauthorization

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit	1998-99	1999-00
1. Teachers' Retirement System		
a. Imaging System		
Restricted Funds	700,000	
2. School Facilities Construction Commission		
a. School Facilities Construction Commission		
Reauthorization ($30,000,000-Bond Funds)		
Bond Funds - Additional	62,500,000	

Notwithstanding any statutory provisions to the contrary, the School Facilities Construction Commission shall incur no more than $62,500,000 in bonded indebtedness beyond that already incurred as of September 1, 1997.

Budget Unit	1998-99	1999-00
3. Kentucky Educational Television		
a. Channel 15 Acquisition		
Capital Construction Surplus	1,100,000	
4. Kentucky Historical Society		
a. Legacy II - Kentucky History Center Enhancement		
Other Funds (1997-98 - $1,599,000)	1,599,000	
b. Kentucky History Center Network/Communications		
General Fund	958,000	
Other Funds	349,000	
Total	1,307,000	
5. Kentucky Center for the Arts		
a. Maintenance Pool		
Investment Income	350,000	150,000

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit	1998-99	1999-00
1. Administration Services		
a. Maintenance Pool		
Investment Income	300,000	300,000

b. Kenton County - Lease
c. Warren County - Lease
d. Campbell County - Lease
e. Hardin County - Lease
f. Kenton County - Lease
g. Jefferson County - Lease
h. Franklin County - Lease
i. Fayette County - Lease

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit	1998-99	1999-00
1. General Administration		
a. Kentucky Infrastructure Authority - Wastewater Revolving Loan and Grant Fund-A (Wastewater Fund-A1; Water Supply Fund-A2) Reauthorization ($9,351,000 - Bond Funds)		
Bond Funds - Additional	5,600,000	
Federal Funds	40,000,000	
Total	45,600,000	

Included in the above Bond Funds appropriation is the funding required each year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

Budget Unit	1998-99	1999-00
b. Kentucky Infrastructure Authority - Fund F Loans - Drinking Water		
Bond Funds	5,000,000	
Federal Funds	25,000,000	
Total	30,000,000	
c. Statewide Digital Basemap		
Investment Income	1,121,000	
Federal Funds	1,231,000	
Total	2,352,000	

2. Department for Administration

For the major equipment purchases displayed in this section as Restricted Funds supported projects, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

Budget Unit	1998-99	1999-00
a. Bar Code Printing and Sorting Equipment		
Restricted Funds (1997-98 - $73,000)		
b. Franklin County - Lease (300 Myrtle Avenue)		
3. Department for Facilities Management		
a. Winchester State Office Building		
Bond Funds	2,500,000	
b. Ballard County Jail		
General Fund	100,000	
c. Ben C. Clement Mineral Museum		
General Fund	169,000	
d. Breckinridge County Courthouse Elevator		
General Fund	150,000	
e. Campbell County Fire Training Center		

	General Fund	240,000	
f.	Caverna Memorial Hospital Renovation		
	General Fund	350,000	
g.	Center for Women and Families Roof		
	General Fund	75,000	
h.	Children's Advocacy/Spouse Abuse Projects		
	General Fund	1,500,000	
i.	Estill County Courthouse Renovation		
	General Fund	200,000	
j.	Hancock County Emergency Vehicle Building		
	General Fund	100,000	
k.	Kentucky Advanced Technical Institute Wood Industries		
	General Fund	100,000	
l.	Lancaster City Hall Renovation		
	General Fund	200,000	
m.	Letcher County Athletic Project		
	General Fund	29,000	
n.	Oak and Acorn		
	General Fund	250,000	
o.	Scott County Vegetable Processing		
	General Fund	50,000	
p.	The Casa Center/New Directions Housing		
	General Fund	250,000	
q.	Year 2000 Conversion		
	General Fund	6,700,000	
r.	Americans with Disabilities Act Compliance		
	Investment Income	250,000	
s.	Capital Construction and Equipment Purchase Contingency Fund		
	Investment Income	8,000,000	
t.	Capital Plaza Complex Repairs		
	Investment Income	1,374,000	1,026,000
u.	Emergency Repair, Maintenance and Replacement Fund		
	Investment Income	8,000,000	
v.	Kentucky State Capitol Dome Renovation/Restoration		
	Investment Income (1997-98 - $698,000)		
w.	Kentucky State Capitol Master Plan/Programming		
	Investment Income	950,000	
x.	Maintenance Pool		
	Restricted Funds	500,000	
	Investment Income	1,175,000	1,449,000
	Total	1,675,000	1,449,000

The Restricted Funds appropriation in fiscal year 1999 shall be funded from the State Surplus Property program.

y.	Maintenance Pool - Statewide Deferred		
	Investment Income	3,500,000	
z.	New Capitol Complex Parking Structure Repairs		
	Investment Income		1,000,000

4. Department for Information Systems

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget funds as funds are available and needed.

a.	Kentucky Information Highway Upgrade/Expansion		
	Restricted Funds	1,500,000	1,500,000
b.	Disk Storage Complex Expansion		
	Restricted Funds	418,000	
c.	Enterprise Disk Controller		
	Restricted Funds	345,000	
d.	Enterprise Disk Controller		
	Restricted Funds		345,000
e.	Enterprise Disk Storage Group		
	Restricted Funds	460,000	
f.	Enterprise Disk Storage Group		
	Restricted Funds		460,000
g.	Enterprise Server		
	Restricted Funds	4,470,000	
h.	Enterprise Server		
	Restricted Funds		3,335,000
i.	Imaging System		
	Restricted Funds	1,150,000	
j.	Processor Complex Expansion		
	Restricted Funds	2,588,000	
k.	Tape Controller and Transports		
	Restricted Funds		313,000
l.	Tape Controller and Transports		
	Restricted Funds	313,000	
m.	Teleprocessing Controller		
	Restricted Funds	525,000	
n.	Franklin County - Lease (100 Fair Oaks)		
5.	Lottery Corporation		
a.	Contingency on Property Adjacent to New Headquarters		
	Other Funds	1,500,000	
b.	Instant Ticket Vending Machines		
	Other Funds	3,420,000	3,420,000
c.	Play Centers for Retail Outlets		
	Other Funds	325,000	325,000
d.	Potential Buyout of On-line Gaming System		
	Other Funds	24,447,000	

A decision by the Lottery Corporation Board to exercise the buyout option authorized here must first obtain the concurrence and approval of the Secretary of the Finance and Administration Cabinet.

e.	Pull Tab Ticket Vending Machines		
	Other Funds	2,304,000	2,304,000
f.	Automate Sales Force Communications		
	Other Funds	275,000	
g.	Data Processing, Telecommunications and Related Equipment		
	Other Funds	3,350,000	
h.	Replacement of Personal Computers		
	Other Funds	160,000	160,000

i.	Upgrade AS 400 Disk Capacity	
	Other Funds	375,000
j.	Upgrade AS 400 to RISC Technology	
	Other Funds	1,020,000
k.	Upgrade Communications of Regional Offices to ATM	
	Other Funds	350,000
l.	Upgrade to Distributed Processing Model	
	Other Funds	300,000

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $1,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit			1998-99	1999-00
1.	Department for Mental Health/Mental Retardation Services			
	a.	Emergency Generator Replacement - Glasgow Skilled Nursing Facility		
		Capital Construction Surplus (1997-98 - $550,000)		
	b.	Emergency Generator Replacement - Central State Hospital		
		Capital Construction Surplus (1997-98 - $550,000)		
	c.	Franklin County - Lease (Fair Oaks Building)		
	d.	Maintenance Pool		
		Investment Income	450,000	450,000
	e.	Miscellaneous Roof Replacement/Repair Pool		
		Investment Income	400,000	

H. JUSTICE CABINET

Budget Unit			1998-99	1999-00
1.	Department of State Police			
	a.	Maintenance Pool		
		Investment Income	200,000	200,000
	b.	Inductively Coupled Mass Spectrometer		
		Federal Funds	150,000	
		Capital Construction Surplus	50,000	
		Total	200,000	
	c.	Microspectrometer		
		Federal Funds	90,000	
		Capital Construction Surplus	30,000	
		Total	120,000	
	d.	Integrated Criminal Apprehension Program (ICAP) Upgrade		
		Bond Funds	1,583,000	
	e.	Kentucky State Police - Automated Fingerprint Identification System (AFIS)		
		Federal Funds	1,871,000	
	f.	Kentucky State Police - Kentucky Accident Reporting System (CRASH)		
		Federal Funds	913,000	
		Bond Funds	1,587,000	
		Total	2,500,000	
	g.	Replacement of Basic Radio System		
		Bond Funds	20,082,000	
2.	Department of Juvenile Justice			
	a.	40-Bed Bootcamp		

	Federal Funds (1997-98 - $621,000)		
b.	Expansion of Breathitt County Detention Center		
	Bond Funds	2,500,000	
c.	Maintenance Pool		
	General Fund	500,000	
	Investment Income	400,000	400,000
	Total	900,000	400,000
d.	New Maximum Security Facility		
	Bond Funds	8,410,000	
e.	Northern Kentucky Treatment Center - HVAC Replacement		
	General Fund	558,000	
f.	Secure Juvenile Detention Facility #1		
	Bond Funds	5,357,000	
g.	Secure Juvenile Detention Facility #2		
	Bond Funds	5,357,000	
h.	Secure Juvenile Detention Facility #3		
	Bond Funds	5,357,000	
3.	Department of Corrections		
a.	Blackburn Correctional Complex - 200-Bed Minimum Security Dorm-Phase I		
	Bond Funds	5,195,000	
b.	Correctional Industries Warehouse/Office Complex		
	Restricted Funds	2,741,000	
c.	Execution Building		
	General Fund	643,000	
d.	Kentucky Correctional Institution for Women Expansion - Phase I		
	Bond Funds	16,434,000	
e.	Maintenance Pool		
	Investment Income	1,400,000	1,400,000
f.	Northpoint Training Center-Water Storage Tank and Water Line Replacement		
	Bond Funds	849,000	
g.	New 1,790-Bed Medium Security Facility for Men (Design and Site Acquisition Only)		
	Bond Funds	3,440,000	
h.	Replace Fire Alarm System		
	Investment Income	450,000	
i.	Correctional Industries/Heidelberg Print Press		
	Restricted Funds	151,000	
j.	Correctional Industries - Unitized Tooling		
	Restricted Funds	109,000	
k.	Embroidery Machine		
	Restricted Funds	110,000	
l.	HPM Press-License Tags		
	Restricted Funds	165,000	
m.	Kluge Letter Press		
	Restricted Funds	110,000	
n.	Washer System		
	Restricted Funds	112,000	

o. Automated Fingerprinting and Photo System		
Restricted Funds	90,000	90,000
p. Jefferson County - Lease (Probation and Parole)		

I. LABOR

Budget Unit	1998-99	1999-00
1. Office of the Secretary		
a. Computer Imaging System		
Restricted Funds - Additional	656,000	470,000
b. Franklin County - Lease (127 Building South)		
2. Department of Workers Claims		
a. Franklin County - Lease (1270 Louisville Road)		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	1998-99	1999-00
1. Department for Natural Resources		
a. Forestry Underground Storage Tank Removal		
Investment Income	200,000	
b. Forestry Equipment		
General Fund	500,000	
2. Department for Environmental Protection		
a. State-Owned Dam Repair -		
Reauthorization		
Investment Income - Additional	500,000	500,000

These funds shall not be expended for the repair of dams owned by the Kentucky Department of Fish and Wildlife Resources or the Kentucky Transportation Cabinet.

b. State-Funded Leaking Underground Storage Tanks -		
Reauthorization		
Restricted Funds - Additional	500,000	500,000
c. Hazardous Waste Management Fund -		
Reauthorization		
Restricted Funds - Additional	2,100,000	2,100,000
d. Franklin County - Lease (Ash Properties)		
e. Franklin County - Lease (Air Quality)		
f. Maxey Flats Monitoring Equipment		
General Fund	191,000	
3. Department for Surface Mining Reclamation and Enforcement		
a. Franklin County - Lease (Hudson Hollow)		
4. General Administration and Support		
a. Kentucky Heritage Land Conservation Fund -		
Reauthorization		
Restricted Funds - Additional	7,500,000	3,500,000
b. Maintenance Pool		
Investment Income	100,000	100,000
5. Kentucky Nature Preserves Commission		
a. Nature Preserves Acquisition Fund -		
Reauthorization		
Restricted Funds - Additional	30,000	30,000
Other Funds - Additional	300,000	300,000

		Total	330,000	330,000
6.	Kentucky River Authority			
	a.	Locks and Dams - Acquisition Reauthorization		
	b.	Kentucky River Water Release System - Reauthorization		
		Restricted Funds - Additional	800,000	
		Agency Bonds - Additional	2,000,000	
		Total	2,800,000	
	c.	Kentucky River Lock 6 Repairs		
		Restricted Funds	302,000	

K. PERSONNEL CABINET

Budget Unit			1998-99	1999-00
1.	Personnel			
	a.	Franklin County - Lease		

L. POSTSECONDARY EDUCATION

Budget Unit			1998-99	1999-00
1.	Council on Postsecondary Education			
	a.	Agency Bond Pool		
		Agency Bonds	35,000,000	
	b.	Commonwealth Virtual University Technology Pool		
		Bond Funds	30,000,000	
	c.	Deferred Maintenance and Government Mandates Pool		
		Restricted Funds	20,613,000	
		Bond Funds	20,613,000	
		Total	41,226,000	
	d.	Research Equipment and Lab Replacement or Acquisition Pool		
		Bonds Funds	26,250,000	
2.	Kentucky Higher Education Assistance Authority			
	a.	Kentucky Higher Education Assistance Authority Office Building		
		Restricted Funds (1997-98 - $310,000)	1,400,000	
		Agency Bonds	9,000,000	
		Total	10,400,000	
	b.	Development Departmental Processor Upgrade		
		Restricted Funds	275,000	
	c.	Imaging System Upgrade		
		Restricted Funds	250,000	
	d.	Franklin County - Lease		
	e.	Production Departmental Processor Upgrade		
		Restricted Funds	650,000	
	f.	System Laser Upgrade		
		Restricted Funds	275,000	
	g.	Tape Management System		
		Restricted Funds	250,000	
3.	Eastern Kentucky University			
	a.	American with Disabilities Act Compliance		
		Restricted Funds	2,560,000	

	b.	E & G Life Safety Begley Elevator		
		Restricted Funds	750,000	
	c.	Law Enforcement Basic Training Complex		
		Agency Bonds	20,000,000	
	d.	Minor Projects Maintenance		
		Restricted Funds	6,000,000	6,000,000
	e.	Parking Garage		
		Restricted Funds	7,200,000	
	f.	Property Acquisition		
		Restricted Funds	2,000,000	3,000,000
	g.	Residence Hall Major Renovation		
		Restricted Funds	10,000,000	
	h.	Student Service/Classroom Building		
		Bond Funds	20,000,000	
	i.	Electronic Security System for Law Library		
		Restricted Funds	110,000	
	j.	Fourier Transformer Nuclear Magnetic Resonance Spectrometer		
		Restricted Funds	135,000	
	k.	Minor Projects Equipment		
		Restricted Funds	2,500,000	2,500,000
	l.	Academic Computing Upgrades		
		Restricted Funds	120,000	120,000
	m.	Administrative Computing System Upgrade/Replacement		
		Restricted Funds	490,000	490,000
	n.	Campus Data Network Expansion/Upgrade		
		Restricted Funds	950,000	950,000
	o.	Distance Learning System Component Acquisition		
		Restricted Funds	2,960,000	--
	p.	Education Reform Computing Telecommunications Expansion		
		Restricted Funds	700,000	750,000
4.	Kentucky State University			
	a.	Americans with Disabilities Act Projects Pool		
		Restricted Funds	650,000	
	b.	Chiller Additions		
		Restricted Funds	2,168,000	
	c.	Combs Hall Renovation		
		Restricted Funds		1,235,000
	d.	General Maintenance Projects		
		Restricted Funds	1,150,000	
	e.	Guard Houses		
		Restricted Funds		56,000
	f.	Hill Student Center Renovation/Addition		
		Bond Funds	8,250,000	
	g.	Hillcrest Renovation and Landscaping		
		Restricted Funds	382,000	
	h.	Hunter Hall Renovation		
		Restricted Funds	1,257,000	

i.	Kentucky State University Foundation Building		
	Other Funds		1,715,000
j.	McCullin Hall Renovation		
	Restricted Funds	1,642,000	
k.	Road and Walkway Improvements		
	Restricted Funds - Additional	22,000	
l.	University Motor Coach		
	Restricted Funds	285,000	
5.	Morehead State University		
a.	1990 Clean Air Act Amendment Compliance		
	Restricted Funds	1,100,000	1,100,000
b.	Americans with Disabilities Act Compliance - E & G		
	Restricted Funds	1,025,000	1,000,000
c.	Americans with Disabilities Act Compliance - Auxiliary Enterprise		
	Restricted Funds	1,100,000	1,075,000
d.	Breckinridge Hall Renovation		
	Bond Funds	14,000,000	
e.	Central Campus Reconstruction		
	Restricted Funds	650,000	
f.	Equine Teaching Facilities/Renovation of Richardson Arena		
	Restricted Funds - Additional	480,000	
g.	Fire Safety/Auxiliary Facilities		
	Restricted Funds	610,000	610,000
h.	Head Start Facility		
	Restricted Funds	144,000	
	Federal Funds	576,000	
	Total	720,000	
i.	Land Acquisitions Related to Campus Master Plan		
	Restricted Funds	1,337,000	
j.	Life Safety: Claypool-Young Air Quality, Health and Safety		
	Restricted Funds	400,000	
k.	Life Safety: Dam Repair/Restoration		
	Restricted Funds	800,000	
l.	Life Safety: Elevator Repairs		
	Restricted Funds	850,000	
m.	Plant Facilities Construction		
	Restricted Funds	2,000,000	
n.	Protect Investment in Auxiliary Facilities		
	Restricted Funds	1,210,000	1,210,000
o.	Protect Investment in E & G Facilities		
	Restricted Funds	1,650,000	1,650,000
p.	Renovation of Family Housing Complexes		
	Restricted Funds	2,000,000	
q.	Instructional Technology Initiatives		
	Restricted Funds	1,702,000	
r.	Instructional Support and Equipment		
	Restricted Funds	1,366,000	

s.	Nuclear Magnetic Resonance Apparatus		
	Restricted Funds	210,000	
t.	Tour Bus		
	Restricted Funds	330,000	
u.	Administrative and Office Systems Support Initiatives		
	Restricted Funds	1,250,000	
v.	Distance Learning Technology Initiatives		
	Restricted Funds	2,725,000	
w.	Library Automation and Information Support Initiatives		
	Restricted Funds	900,000	
x.	Microcomputer/LANs/Peripherals - Instructional		
	Restricted Funds	1,800,000	
y.	Networking/Infrastructure Initiatives		
	Restricted Funds	1,508,000	
6.	Murray State University		
a.	Americans with Disabilities Act Compliance: Architectural Barriers E & G Pool less than $400,000		
	Restricted Funds	1,229,000	1,192,000
b.	Americans with Disabilities Act Compliance: Architectural Barriers Blackburn Science		
	Restricted Funds		1,367,000
c.	Americans with Disabilities Act Compliance: Architectural Barriers H & D Pool less than $400,000		
	Restricted Funds	415,000	475,000
d.	Asbestos Abatement: E & G Pool less than $400,000		
	Restricted Funds	58,000	
e.	Asbestos Abatement: H & D Pool less than $400,000		
	Restricted Funds	501,000	180,000
f.	Chlorofluorocarbon Compliance: E & G Chillers Replacement		
	Restricted Funds	476,000	421,000
g.	Chlorofluorocarbon Compliance: H & D Chillers and Monitoring System		
	Restricted Funds	370,000	370,000
h.	Carr Health/Business Building Renovations and Education Building Addition		
	Bond Funds	10,184,000	
	Other Funds	4,000,000	
	Total	14,184,000	
i.	Deferred Maintenance: H & D Pool less than $400,000		
	Restricted Funds	868,000	894,000
j.	Deferred Maintenance: E & G Pool less than $400,000		
	Restricted Funds	2,177,000	2,855,000
k.	Energy Conservation: E & G Pool less than $400,000		
	Restricted Funds	496,000	
l.	Life Safety: E & G Pool less than $400,000		
	Restricted Funds	450,000	628,000
m.	Life Safety: H & D Pool less than $400,000		
	Restricted Funds	296,000	306,000
n.	National Scouting Museum, BSA Phase III		

		Restricted Funds - Additional		300,000
	o.	Miscellaneous E & G Projects less than $400,000		
		Restricted Funds	1,236,000	1,132,000
	p.	Miscellaneous H & D Projects less than $400,000		
		Restricted Funds	50,000	70,000
	q.	Replace Clark or Franklin Hall/College		
		Restricted Funds	6,500,000	
	r.	Replace Richmond Hall		
		Restricted Funds	6,500,000	
	s.	Air Testing and Monitoring Equipment		
		Restricted Funds		125,000
	t.	Arts Educational Equipment		
		Restricted Funds	683,000	115,000
	u.	Breathitt Lab Equipment		
		Restricted Funds		661,000
	v.	Equipment less than $100,000		
		Restricted Funds	864,000	572,000
	w.	General Lab Equipment Replacement		
		Restricted Funds		602,000
		Federal Funds		85,000
		Total		687,000
	x.	Replace Family and Consumer Studies Lab Equipment		
		Restricted Funds		353,000
	y.	Purchasing and Accounts Payable System		
		Restricted Funds	113,000	115,000
	z.	Telecommunications Switching Systems		
		Restricted Funds	120,000	
7.	Northern Kentucky University			
	a.	Americans with Disabilities Act Compliance		
		Restricted Funds	400,000	
	b.	Alumni and Faculty/Staff Center		
		Other Funds	3,000,000	
	c.	Athletic Fields - Phase I		
		Other Funds	7,000,000	
	d.	Chiller Replacements/Chlorofluorocarbon		
		Restricted Funds	4,500,000	
		Other Funds	2,600,000	
		Total	7,100,000	
	e.	Covington Campus - Urban Learning Center		
		Other Funds	10,000,000	
	f.	Energy Conservation/Management Pool		
		Restricted Funds	400,000	
	g.	Fire Safety: E & G Sprinklers		
		Restricted Funds	400,000	
	h.	Land Acquisition (1998-2000)		
		Restricted Funds	2,000,000	
	i.	Landrum Structural Safety Repairs		

	Restricted Funds	650,000
j.	Landscape Enhancement (1998-2000)	
	Other Funds	1,000,000
k.	Minor Projects Pool (1998-2000)	
	Restricted Funds	1,095,000
l.	Natural Science Building	
	Bond Funds - Additional	36,500,000
m.	Northern Kentucky Convocation Center Feasibility Study	
	Restricted Funds	500,000
n.	New Printing Press	
	Restricted Funds	175,000
o.	Alpha Computer Expansion	
	Restricted Funds	135,000
p.	Automatic Tape System	
	Restricted Funds	155,000
q.	Digital Copier	
	Restricted Funds	315,000
r.	Laser Printer	
	Restricted Funds	125,000
s.	Voice Mail System	
	Restricted Funds	180,000
t.	Voice-Response/Touch-Tone System	
	Restricted Funds	205,000
8.	University of Kentucky - University System	
a.	4 KV to 12 KV Electrical Conversion	
	Restricted Funds	400,000
b.	Academic and Research Renovation (College of Medicine)	
	Restricted Funds	625,000
c.	Administration Building - Exterior Repair	
	Restricted Funds	1,400,000
d.	Aging/Allied Health Building, Phase II	
	Restricted Funds	13,000,000
	Bond Funds	20,000,000
	Total	33,000,000
e.	Agricultural Plant Science Facility	
	Restricted Funds	18,365,000
f.	Agricultural Science Greenhouses - Renovation	
	Restricted Funds	750,000
g.	Agriculture Information Center	
	Restricted Funds	800,000
h.	Agriculture North Renovation	
	Restricted Funds	3,150,000
i.	Agriculture Science South - Animal Care Facility Upgrade	
	Restricted Funds	900,000
j.	Bowman Hall Renovation	
	Restricted Funds	4,300,000
k.	Boyd Hall - HVAC	

	Restricted Funds		1,100,000
l.	Chemistry Laboratory Renovation		
	Restricted Funds	1,050,000	
m.	Chilled Water Additions		
	Restricted Funds	700,000	
n.	Chiller Replacement - Cooling #3		
	Restricted Funds	1,000,000	
o.	Clinical Development Space (College of Medicine)		
	Restricted Funds	500,000	
p.	Clinical Lab-Computer Assisted Learning Facility		
	Restricted Funds	450,000	
q.	Commonwealth Stadium Expansion		
	Agency Bonds	24,000,000	
r.	Cooling #3 to Limestone Street Chilled Water Pipe		
	Restricted Funds	1,800,000	
s.	Cooling Secondary Pumping		
	Restricted Funds	2,000,000	
t.	Cooper House Renovation		
	Restricted Funds	750,000	
u.	Cooperstown/Shawneetown III		
	Restricted Funds	4,500,000	
v.	Crisp Building Replacement		
	Restricted Funds	2,200,000	
w.	Deferred Maintenance and Roof Replacement Project Pool		
	Restricted Funds	9,297,000	
x.	Electrical Substation #1 and #2 Connections		
	Restricted Funds	1,500,000	
y.	Energy Conservation Project (Medical Center)		
	Restricted Funds	2,000,000	
z.	Engineering Information Center		
	Restricted Funds	650,000	
aa.	Erikson Hall Renovation		
	Restricted Funds		2,250,000
ab.	Gatton College Addition for International Business and Management Center		
	Restricted Funds	1,500,000	
ac.	Handicapped Access Pool		
	Restricted Funds	2,425,000	
ad.	High Security Isolation Facility		
	Restricted Funds		9,800,000
ae.	Holmes Hall - HVAC		
	Restricted Funds	950,000	
af.	Jewell Hall - HVAC		
	Restricted Funds		700,000
ag.	Keeneland Hall - HVAC		
	Restricted Funds		1,900,000
ah.	Kentucky Clinic Annex Replacement Building		
	Restricted Funds	6,000,000	

ai.	King South Renovation		
	Restricted Funds	10,365,000	
aj.	Lancaster Aquatics Center Expansion		
	Restricted Funds	2,573,000	
ak.	Land Acquisition		
	Restricted Funds	4,000,000	
al.	Life Safety Project Pool		
	Restricted Funds	11,400,000	
am.	Long Range Utility Planning		
	Restricted Funds	600,000	
an.	Mechanical Engineering Building		
	Restricted Funds	4,000,000	
	Bond Funds	19,600,000	
	Total	23,600,000	
ao.	Medical Center Addition		
	Restricted Funds		11,400,000
ap.	Medical Center Chilled Water Loop		
	Restricted Funds	500,000	
aq.	Medical Center Information Center		
	Restricted Funds	1,550,000	
ar.	Outpatient Clinic Expansion - Dentistry		
	Restricted Funds		2,000,000
as.	Parking Structure Expansion		
	Restricted Funds	5,654,000	
at.	Patterson Hall Renovation		
	Restricted Funds		2,950,000
au.	Pharmacy Dispensing Lab		
	Restricted Funds	600,000	
av.	Pollution Controls, Medical Center Heating Plant		
	Restricted Funds	1,333,000	
aw.	Publishing Services Building Addition		
	Restricted Funds	450,000	
ax.	Renovation of Biological Sciences Research Space		
	Restricted Funds	1,300,000	
ay.	Renovation of Funkhouser - Phase IV		
	Restricted Funds	700,000	
az.	Seaton Center Addition/Renovation		
	Restricted Funds	15,350,000	
ba.	Singletary Center Renovation of Auditoria and Public Spaces		
	Restricted Funds	1,850,000	
bb.	Slone Building Renovation		
	Restricted Funds	3,900,000	
bc.	South Campus Communications Infrastructure		
	Restricted Funds	2,294,000	
bd.	Specialized Greenhouses		
	Restricted Funds	3,550,000	
be.	Steam Line Expansion - Rose Street		

	Restricted Funds	700,000	
bf.	Steam and Condensate Pipe Repair		
	Restricted Funds	2,100,000	
bg.	Storm Sewer Improvements - Funkhouser		
	Restricted Funds	800,000	
bh.	Student Center Sprinkler System		
	Restricted Funds	700,000	
bi.	Student Housing/Fraternity House Replacement		
	Restricted Funds	5,600,000	
bj.	Substation #2 Renovation		
	Restricted Funds	2,000,000	
bk.	4.7 Tessler Human Scanner		
	Restricted Funds	4,000,000	
bl.	600 MHz Nuclear Magnetic Resonance System		
	Restricted Funds	1,500,000	
bm.	600 MHz Nuclear Magnetic Resonance		
	Restricted Funds	300,000	
	Federal Funds	700,000	
	Total	1,000,000	
bn.	800 MHz Nuclear Magnetic Resonance System		
	Restricted Funds	2,500,000	
bo.	9.4 Tessler Scanner		
	Restricted Funds	750,000	
bp.	ABS DNA Sequencer		
	Restricted Funds	120,000	
bq.	Area Detector Diffractomer		
	Restricted Funds	100,000	
	Federal Funds	210,000	
	Total	310,000	
br.	Autoradiography		
	Restricted Funds	207,000	
bs.	Calorimeter		
	Restricted Funds	104,000	
bt.	Confocal Microscope		
	Restricted Funds	315,000	
bu.	Confocal Microscope System		
	Restricted Funds	120,000	
bv.	DNA Sequencer		
	Restricted Funds	150,000	
bw.	DNA Sequencer		
	Restricted Funds	130,000	
bx.	DNA Sequencer		
	Restricted Funds	120,000	
by.	DNA Sequencer/Gene Mapping		
	Restricted Funds	130,000	130,000
bz.	DNA Synthesizer		
	Restricted Funds	100,000	

ca.	Differential Flow Calorimeter/Thermomechanical Analyzer	
	Restricted Funds	175,000
cb.	Dissecting Confocal Microscope	
	Restricted Funds	200,000
cc.	Electron Spin Resonance Instrument	
	Restricted Funds	65,000
	Federal Funds	135,000
	Total	200,000
cd.	Electrophysiologic Analysis System	
	Restricted Funds	200,000
ce.	Environmental Test System	
	Restricted Funds	125,000
cf.	Epi-Flourescence Microscope	
	Restricted Funds	130,000
cg.	Faraday Balance	
	Restricted Funds	60,000
	Federal Funds	140,000
	Total	200,000
ch.	Flow Cytometry Lab	
	Restricted Funds	375,000
ci.	Fluorescence Activated Cell Sorter	
	Restricted Funds	200,000
cj.	Fluorescent Activated Cell Sorter	
	Restricted Funds	230,000
ck.	Freeze-Thaw Apparatus	
	Restricted Funds	100,000
cl.	GT Ultracentrifuges	
	Restricted Funds	345,000
cm.	Garbage Truck Front Loader - Replacement	
	Restricted Funds	150,000
cn.	Gas Analyzer	
	Restricted Funds	100,000
co.	Gas Chromatograph - Mass Spectrometer	
	Restricted Funds	250,000
cp.	Gas Chromatograph - Mass Spectrophotometer System	
	Restricted Funds	210,000
cq.	Gas Chromatography/Atomic Emission Detector (GC/AED)	
	Restricted Funds	120,000
cr.	HPLC to Measure Cellular Metabolites	
	Restricted Funds	100,000
cs.	HPLC/Mass Spectrometer System	
	Restricted Funds	300,000
ct.	High Power Carbon Dioxide Laser	
	Restricted Funds	250,000
cu.	High Pressure Liquid Chromatography and Accessories	
	Restricted Funds	100,000
	Federal Funds	100,000

	Total	200,000
cv.	High Resolution Mass Spectrometer	
	Restricted Funds	500,000
cw.	High Resolution Phosophor Imager	
	Restricted Funds	200,000
cx.	High Resolution STEM 400 KV	
	Restricted Funds	1,500,000
cy.	High Temperature Optical Microscope	
	Restricted Funds	105,000
cz.	High-Speed Digital Signal Processing Development System	
	Federal Funds	150,000
da.	High-Temperature X-Ray Diffractometer	
	Restricted Funds	225,000
db.	Holographic System with Image Analyzer	
	Restricted Funds	110,000
dc.	Hydro Flume	
	Restricted Funds	130,000
dd.	Image Analysis System	
	Restricted Funds	200,000
de.	Image Analyzer System	
	Restricted Funds	200,000
df.	Incinerator Replacement	
	Restricted Funds	1,600,000
dg.	Inductive Coupled Argon Plasma Unit	
	Restricted Funds	110,000
dh.	Integrated TGA/Differential Scanning Calorimeter/MS	
	Restricted Funds	120,000
di.	Inverted Microscope Including Fluoroscope	
	Restricted Funds	150,000
dj.	Isolate Cell Calcium Detector	
	Restricted Funds	110,000
dk.	Laser	
	Restricted Funds	104,000
dl.	Laser Ablation Sampling System/Attachment for ICP/MS	
	Restricted Funds	200,000
dm.	Laser Confocal Microscope	
	Restricted Funds	303,000
dn.	Laser System	
	Restricted Funds	80,000
	Federal Funds	170,000
	Total	250,000
do.	Lighting System	
	Restricted Funds	237,000
dp.	MB Ultracentrifuges	
	Restricted Funds	354,000
dq.	MB/GT Phospho-Imager	
	Restricted Funds	128,000

dr.	Motion Analysis System Upgrade	
	Restricted Funds	204,000
ds.	Nuclear Magnetic Resonance Spectrometer 300 MHz Upgrade	
	Restricted Funds	400,000
dt.	Offset Printing Press	
	Restricted Funds	150,000
du.	Oxymax Open Circuit Calorimeter	
	Restricted Funds	100,000
dv.	Plot Combine with Weighing System	
	Restricted Funds	125,000
dw.	Protein Synthesizer	
	Restricted Funds	200,000
dx.	Real Time Confocal Microscope	
	Restricted Funds	300,000
dy.	Research Grade Light Microscope	
	Restricted Funds	100,000
dz.	Solids NMR Spectrometer	
	Restricted Funds	900,000
ea.	Sterilizer	
	Restricted Funds	100,000
eb.	Sterilizing/Cleaning System	
	Restricted Funds	234,000
ec.	Stiff Testing Machine	
	Restricted Funds	140,000
ed.	Studio Recording Equipment	
	Restricted Funds	113,000
ee.	Thermal Analyzer and Powder Diffractometer	
	Restricted Funds	310,000
ef.	Three-Dimensional Scaling Device	
	Federal Funds	100,000
eg.	Tinius Olsen Ductometer	
	Restricted Funds	100,000
eh.	Transmission Electron Microscope	
	Restricted Funds	200,000
ei.	Ultra High Vacuum Chamber	
	Restricted Funds	80,000
	Federal Funds	170,000
	Total	250,000
ej.	Ultracentrifuge	
	Restricted Funds	113,000
ek.	Upgrade of 400 MHz Nuclear Magnetic Resonance	
	Restricted Funds	160,000
	Federal Funds	340,000
	Total	500,000
el.	Virtual Environment Simulator	
	Restricted Funds	125,000
em.	Whole Body Composition Analyzer	

	Restricted Funds	150,000	
en.	X-Ray Fluorescence Instrument		
	Restricted Funds		130,000
eo.	X-Ray Fluorescence System		
	Restricted Funds	175,000	
ep.	X-Ray Laue Unit - Single Crystal		
	Restricted Funds	150,000	
eq.	3.7 Satellite Uplink		
	Restricted Funds	304,000	
er.	CAD/CAM System		
	Restricted Funds	184,000	
es.	Community College System Network Upgrade		
	Restricted Funds	1,187,000	
et.	Compressed Video - Hazard		
	Restricted Funds	136,000	
eu.	Database Testbed		
	Restricted Funds	225,000	
ev.	Department Computer Upgrade		
	Restricted Funds	225,000	
ew.	Digital Radiograph/Imaging System		
	Restricted Funds	200,000	
ex.	Distributed Testbed System		
	Restricted Funds	250,000	
ey.	Engineering Research Computing System		
	Restricted Funds	440,000	
ez.	General Chemistry Computerization		
	Restricted Funds	385,000	
fa.	Healthcare Network		
	Restricted Funds	3,000,000	
fb.	Imaging Systems I		
	Restricted Funds	328,000	
fc.	Instructional Multi-Media, Phase II		
	Restricted Funds	576,000	1,150,000
fd.	Language Lab		
	Restricted Funds	300,000	
fe.	NSF Fileserver		
	Restricted Funds	150,000	
ff.	Network Replacement		
	Restricted Funds	100,000	
fg.	Optical Disk Server		
	Restricted Funds	180,000	
fh.	Patient Classification Equipment Rural Health		
	Restricted Funds	250,000	
fi.	Satellite Uplink - Rural Health		
	Restricted Funds	400,000	
fj.	Storage Management System I		
	Restricted Funds	328,000	

fk.	Supercomputer Upgrade I		
	Restricted Funds	1,574,000	1,574,000
fl.	Telemedicine Equipment - Rural Health		
	Restricted Funds	400,000	
fm.	Telemedicine Systems		
	Restricted Funds	600,000	
fn.	Upgrading/Establishing Communication System		
	Restricted Funds	365,000	462,000
fo.	Virtual Reality Computing System		
	Restricted Funds	150,000	
fp.	College of Medicine - Clinical/Educational - Lease		
fq.	College of Medicine Clinical - Lease		
9.	Kentucky Community and Technical College System		
a.	Central Regional Postsecondary Education Center - Phase I		
	Bond Funds	10,663,000	
	Other Funds	2,789,000	
	Total	13,452,000	
b.	Deferred Maintenance and Government Mandates Pool		
	Restricted Funds	4,387,000	
	Bond Funds	4,387,000	
	Total	8,774,000	
c.	Hazard Community College Classroom Building - Phase II		
	Bond Funds	4,355,000	
	Other Funds	2,145,000	
	Total	6,500,000	
d.	Kentucky Advanced Technology Institute - Land Acquisition		
	General Fund	265,000	
e.	Kentucky Tech College of Arts and Crafts		
	Bond Funds	2,747,000	
	Other Funds	1,353,000	
	Total	4,100,000	
f.	Kentucky Tech Clinton County Regional Technology Center		
	Bond Funds	3,537,000	
	Other Funds	3,000,000	
	Total	6,537,000	
g.	Kentucky Tech Danville: Regional Technology Center - Phase I		
	Bond Funds	4,680,000	
	Other Funds	2,305,000	
	Total	6,985,000	
h.	Madisonville Community College - Science/Technical Classroom Building		
	Federal Funds	500,000	
	Bond Funds	2,900,000	
	Other Funds	2,000,000	
	Total	5,400,000	
i.	Madisonville Community College: Muhlenberg County Classroom Building		
	Restricted Funds	3,500,000	
j.	Maysville Community College and Kentucky Tech Maysville:		

	New Technology Center	
	Bond Funds	1,675,000
	Other Funds	825,000
	Total	2,500,000
k.	New Kentucky Tech Shelby County Campus and Jefferson Community College Extension Center	
	Bond Funds	7,208,000
	Other Funds	3,550,000
	Total	10,758,000
l.	Northeast Regional Postsecondary Education Center	
	Bond Funds	5,000,000
	Other Funds	1,650,000
	Total	6,650,000
m.	Paducah Community College Engineering Building Infrastructure Completion	
	General Fund	709,000
n.	Paducah Community College Engineering Building Instructional Labs	
	General Fund	734,000
o.	Paducah Community College Library Renovation	
	General Fund	1,150,000
p.	Somerset Community College and Kentucky Tech - Academic Support/Technical Education Complex	
	Bond Funds	6,873,000
	Other Funds	3,385,000
	Total	10,258,000
q.	South Regional Postsecondary Education Center - Phase I	
	Bond Funds	6,180,000
	Agency Bonds	1,525,000
	Other Funds	1,295,000
	Total	9,000,000
r.	Southeast Regional Postsecondary Education Center - Phase I	
	Bond Funds	10,484,000
	Other Funds	2,701,000
	Total	13,185,000
s.	West Regional Postsecondary Education Center	
	Bond Funds	5,000,000
	Other Funds	1,650,000
	Total	6,650,000
t.	Hazard Regional Technology Center: Articulating Grader	
	Restricted Funds	187,000
u.	Hazard Regional Technology Center: Bulldozer	
	Restricted Funds	478,000
v.	Hazard Regional Technology Center: Endloader	
	Restricted Funds	161,000
w.	Automated Administrative Systems	
	Restricted Funds (1997-98 - $10,300,000)	
	Bond Funds (1997-98 - $3,200,000)	

10. University of Kentucky Hospital

a.	Biohazard/Environmental Protection I		
	Restricted Funds	1,500,000	
b.	Building Connectors II		
	Restricted Funds	2,200,000	
c.	Building/Site Upgrade II		
	Restricted Funds	710,000	
d.	Data Systems Expansion I		
	Restricted Funds	595,000	
e.	Diagnostic Service Upgrade VII		
	Restricted Funds	1,100,000	
f.	Diagnostic Services Upgrade VIII		
	Restricted Funds	1,100,000	
g.	HVAC Upgrade		
	Restricted Funds		3,500,000
h.	Hospital Kitchen Renovation I		
	Restricted Funds	1,000,000	
i.	Hospital Kitchen Renovation II		
	Restricted Funds	520,000	
j.	Hospital Parking Expansion		
	Restricted Funds		3,100,000
k.	Imaging Services		
	Restricted Funds	3,500,000	
l.	Implementation of Land Use Plan II		
	Restricted Funds	2,500,000	
m.	Intra-Hospital Transportation Systems III		
	Restricted Funds	700,000	
n.	Limited Stay Facility		
	Restricted Funds	5,200,000	
o.	Markey Fourth Floor Renovation		
	Restricted Funds	3,800,000	
p.	Materials Handling Storage/Distribution Center		
	Restricted Funds	970,000	
q.	Nursing Unit Modification VI		
	Restricted Funds	940,000	
r.	Nursing Unit Modification VIII		
	Restricted Funds	3,500,000	
s.	Outpatient Care Facility		
	Restricted Funds	3,500,000	
t.	Outpatient Diagnostic and Treatment Center		
	Restricted Funds	14,000,000	
u.	Outpatient Services		
	Restricted Funds	3,600,000	
v.	Parking Structure I		
	Restricted Funds	6,600,000	
w.	Parking Structure II		
	Restricted Funds	6,600,000	
x.	Patient Care Facility/Women's Cancer Center		

	Restricted Funds	8,000,000
y.	Primary Care Center	
	Restricted Funds	13,200,000
z.	Utility System Upgrade III	
	Restricted Funds	1,500,000
aa.	Angiographic Unit	
	Restricted Funds	1,950,000
ab.	Automated Screening System	
	Restricted Funds	200,000
ac.	Breast Radiographic	
	Restricted Funds	250,000
ad.	CT Scanner	
	Restricted Funds	1,600,000
ae.	Cardiac Catheterization Lab	
	Restricted Funds	4,000,000
af.	Cardiac Ultrasound	
	Restricted Funds	300,000
ag.	Catheterization Lab	
	Restricted Funds	2,500,000
ah.	Digital Enhancement	
	Restricted Funds	850,000
ai.	Digital Radiology	
	Restricted Funds	1,750,000
aj.	Digital Radiology	
	Restricted Funds	800,000
ak.	Digitract Orbitor Camera	
	Restricted Funds	250,000
al.	EKG Management System	
	Restricted Funds	250,000
am.	EKG Unit	
	Restricted Funds	400,000
an.	EMG Unit	
	Restricted Funds	200,000
ao.	Echocardiography Equipment	
	Restricted Funds	300,000
ap.	Electrophysiology Lab	
	Restricted Funds	1,500,000
aq.	Electrophysiology Laboratory	
	Restricted Funds	1,250,000
ar.	Endoscopy Video/Ultrasound	
	Restricted Funds	250,000
as.	Endoscopy Video/Ultrasound	
	Restricted Funds	300,000
at.	Fluoroscopy Unit	
	Restricted Funds	500,000
au.	Gamma Knife Upgrade	
	Restricted Funds	2,000,000

av.	General Radiography Unit	
	Restricted Funds	800,000
aw.	General Radiography/Fluoroscopic Unit	
	Restricted Funds	500,000
ax.	General Radiology Unit	
	Restricted Funds	500,000
ay.	General Radiology Unit	
	Restricted Funds	800,000
az.	Hyperbaric Chamber	
	Restricted Funds	150,000
ba.	Infectious Disease Detection System	
	Restricted Funds	102,000
bb.	Laboratory Analyzer	
	Restricted Funds	200,000
bc.	Laboratory Analyzer	
	Restricted Funds	200,000
bd.	MRI	
	Restricted Funds	2,500,000
be.	MRI Upgrade	
	Restricted Funds	500,000
bf.	Mobile Fluoroscopy	
	Restricted Funds	200,000
bg.	Mobile Radiology Unit	
	Restricted Funds	200,000
bh.	Neuro-Radiography Unit	
	Restricted Funds	1,500,000
bi.	Nuclear Medicine Camera	
	Restricted Funds	750,000
bj.	OB Ultrasound	
	Restricted Funds	300,000
bk.	Radiation Therapy Unit	
	Restricted Funds	1,800,000
bl.	Radiology Ultrasound	
	Restricted Funds	400,000
bm.	SPECT System	
	Restricted Funds	750,000
bn.	Scrub Dispenser	
	Restricted Funds	225,000
bo.	Surgical Laser	
	Restricted Funds	200,000
bp.	Surgical Laser	
	Restricted Funds	200,000
bq.	Surgical Microscope	
	Restricted Funds	300,000
br.	Surgical Mircoscope	
	Restricted Funds	300,000
bs.	Treatment Planning System	

	Restricted Funds	1,200,000
bt.	UROL Table	
	Restricted Funds	300,000
bu.	Vascular Ultrasound	
	Restricted Funds	300,000
bv.	ALIS	
	Restricted Funds	800,000
bw.	Clinical Information System	
	Restricted Funds	1,000,000
bx.	Clinical Information System	
	Restricted Funds	3,000,000
by.	Clinical System Enterprise	
	Restricted Funds	5,000,000
bz.	Digital Imaging	
	Restricted Funds	750,000
ca.	Digital Medical Record Expansion	
	Restricted Funds	2,000,000
cb.	Infrastructure Communication Enterprise	
	Restricted Funds	5,000,000
cc.	Managed Care Enterprise	
	Restricted Funds	1,000,000
cd.	Mass Storage Capability	
	Restricted Funds	300,000
ce.	Mass Storage Capability	
	Restricted Funds	200,000
cf.	Patient System Enterprise	
	Restricted Funds	4,000,000
cg.	Perioperative Clinical	
	Restricted Funds	350,000
ch.	State Communication Enterprise	
	Restricted Funds	3,000,000
ci.	Telecommunications	
	Restricted Funds	800,000
cj.	Telecommunications	
	Restricted Funds	1,250,000
ck.	Upgrade Disk Capacity	
	Restricted Funds	450,000
cl.	Upgrade Disk Capacity	
	Restricted Funds	250,000
cm.	Upgrade HIS Computing Facilities	
	Restricted Funds	2,500,000
cn.	Upgrade Printing Capacity	
	Restricted Funds	400,000
co.	Upgrade Tape Capacity	
	Restricted Funds	250,000
cp.	Upgrade Telecommunications Facilities	
	Restricted Funds	250,000

	cq.	Upgrade Telecommunications Facilities		
		Restricted Funds	750,000	
11.		University of Louisville		
	a.	Americans with Disabilities Act Project Pool		
		Restricted Funds	6,729,000	
	b.	Chlorofluorocarbon Project-Phase II		
		Restricted Funds	1,325,000	
	c.	Chlorofluorocarbon Project, Phase III		
		Restricted Funds		1,851,000
	d.	Code Improvements-Fire Safety Pool		
		Restricted Funds	2,588,000	
	e.	Dental Clinic and Sterilization Renovation		
		Other Funds		3,000,000
	f.	Early Childhood "EDUCARE" Center		
		Restricted Funds	3,300,000	
	g.	Environmental Health and Safety Projects		
		Restricted Funds	1,224,000	
	h.	HSC Parking Garage - Two Additional Floors		
		Restricted Funds	4,454,000	
	i.	Humanities Classroom Renovation		
		Restricted Funds	721,000	
	j.	Land Purchase East of University Hospital - HSC		
		Restricted Funds		5,000,000
	k.	MDR Renovation - Phase I - Building 51		
		Restricted Funds	1,548,000	
	l.	MDR Renovation - Phase II - Building 51		
		Restricted Funds		1,595,000
	m.	MDR Renovation - Phase III - Building 51		
		Restricted Funds		2,583,000
	n.	Major Maintenance Pool - Phase I		
		Restricted Funds	6,142,000	
	o.	Medical School Lab Renovation - Building 55A		
		Restricted Funds	1,717,000	
	p.	New Residence Hall and West Utilities		
		Other Funds	18,277,000	
	q.	Purchase Parking Spaces on Health Sciences Campus		
		Restricted Funds	825,000	
	r.	Research Building (Belknap)		
		Bond Funds	32,040,000	
	s.	Research Resources Center Expansion		
		Restricted Funds	1,588,000	
	t.	Social Work-Practice Center - Marine Hospital (Portland)		
		Other Funds		7,865,000
	u.	Support Services Land Acquisition (Northeast)		
		Restricted Funds		3,820,000
	v.	Transgenic Facility		
		Restricted Funds		2,261,000

w.	University Park - Parkway Field/Baseball Stadium		
	Other Funds	2,392,000	
x.	University Park - Track and Field - Soccer and Field Hockey Facility		
	Other Funds	4,987,000	
y.	Utility Distribution Improvements - South		
	Restricted Funds	6,541,000	
z.	Three-Dimensional Echocardiographic Package		
	Restricted Funds	140,000	
aa.	49-Foot Research Vessel		
	Restricted Funds	100,000	
	Federal Funds	400,000	
	Total	500,000	
ab.	750 MHz Nuclear Magnetic Resonance Spectrometer		
	Restricted Funds	400,000	
	Federal Funds	800,000	
	Total	1,200,000	
ac.	Acoustic Imaging 5200 Envision		
	Restricted Funds	176,000	
ad.	Animal Irradiator		
	Restricted Funds	154,000	
ae.	Atomic Absorption (AA) Spectrometer, High Resolution		
	Restricted Funds	110,000	
af.	Autoclave, Large pass-thru		
	Restricted Funds	300,000	
ag.	Automated DNA Sequencer		
	Restricted Funds	149,000	
ah.	Automated Synthesizer		
	Restricted Funds		100,000
	Federal Funds		100,000
	Total		200,000
ai.	Backside Mask Aligner		
	Restricted Funds		154,000
aj.	Bruker AMX 500 Console Upgrade		
	Restricted Funds		100,000
	Federal Funds		100,000
	Total		200,000
ak.	Capillary Electropheresis		
	Restricted Funds		50,000
	Federal Funds		50,000
	Total		100,000
al.	Computerized Cardiac Laboratory		
	Restricted Funds	256,000	
am.	Digital Micro-Luminography System for Transmission Electron		
	Restricted Funds	120,000	
an.	Diode Laser		
	Restricted Funds	100,000	
ao.	EPR Spectrometer Update		

	Restricted Funds		60,000
	Federal Funds		65,000
	Total		125,000
ap.	Echocardiograph Vascular System		
	Restricted Funds	300,000	
aq.	Electronic Darkroom		
	Restricted Funds	113,000	
ar.	Epifluorescence Microscope		
	Restricted Funds		50,000
	Federal Funds		55,000
	Total		105,000
as.	Exicerm Laser		
	Restricted Funds		600,000
at.	FT IR Spectrometer		
	Restricted Funds		75,000
	Federal Funds		75,000
	Total		150,000
au.	Fluorescence Activated Cell Sorter		
	Restricted Funds	352,000	
av.	Gas Chromatography - Mass Spectrometer (GC-MS) High-Resolution		
	Restricted Funds	110,000	
aw.	Gel/Blot Image Analysis System		
	Restricted Funds	140,000	
ax.	High Definition Video System		
	Restricted Funds	300,000	
ay.	High Resolution SEM with Backscatter Detector		
	Restricted Funds		160,000
az.	High Resolution/Mass Spectrometer (GC/MS) System		
	Restricted Funds	470,000	
ba.	Imaging Raman Spectrometer		
	Restricted Funds	85,000	
	Federal Funds	85,000	
	Total	170,000	
bb.	In Vivo Thrombosis Detection and Quantitation System		
	Restricted Funds		168,000
bc.	Integrated Multi-Detector Imaging System		
	Restricted Funds	545,000	
bd.	Intermediate Voltage Transmission Electron Microscope		
	Restricted Funds		350,000
be.	Liquid Chromatograph - Mass Spectrometer		
	Restricted Funds		150,000
	Federal Funds		300,000
	Total		450,000
bf.	MALDI Mass Spectrometer		
	Restricted Funds		200,000
	Federal Funds		200,000
	Total		400,000

bg.	Message Board - University Park		
	Restricted Funds	300,000	
bh.	Metabolic Stress System and Bike		
	Restricted Funds	106,000	
bi.	Molecular Imaging System		
	Restricted Funds		50,000
	Federal Funds		55,000
	Total		105,000
bj.	Nailfold Microvascular Analysis System		
	Restricted Funds	119,000	
bk.	Peak 3D Computerized Motion Measurement and Analysis System		
	Restricted Funds	115,000	
bl.	Peptide Sequencer		
	Restricted Funds	145,000	
bm.	Plasma Enhanced Chemical Deposition System		
	Restricted Funds		133,000
bn.	Protein Sequencer		
	Restricted Funds	191,000	
bo.	Radiographic/Fluoroscopic Imaging Unit		
	Restricted Funds	195,000	
bp.	Radiographic/Fluoroscopic X-Ray System		
	Restricted Funds	317,000	
bq.	Rapid Prototyping System		
	Restricted Funds		376,000
br.	SEM Accessories for Elemental Analysis		
	Restricted Funds		165,000
bs.	SIMS: Materials Characterization Apparatus		
	Restricted Funds		165,000
bt.	Scanning Electron Microscope		
	Other Funds	160,000	
bu.	Scanning Electron Microscope		
	Restricted Funds		115,000
	Federal Funds		115,000
	Total		230,000
bv.	Scanning Tunnelling Microscope		
	Restricted Funds		50,000
	Federal Funds		53,000
	Total		103,000
bw.	Small Artery Reactivity Diagnostic System		
	Restricted Funds		138,000
bx.	Small Vein in Vivo Diagnostic System		
	Restricted Funds	197,000	
by.	Spectroflurometer		
	Restricted Funds		50,000
	Federal Funds		50,000
	Total		100,000
bz.	Stress Echo System		

	Restricted Funds	127,000	
ca.	Surface Analysis Microscope System		
	Restricted Funds		200,000
	Federal Funds		200,000
	Total		400,000
cb.	Trash Compactor		
	Restricted Funds	125,000	
cc.	Ultra High Vacuum Chamber		
	Other Funds	310,000	
cd.	Vascular Smooth Muscle Analyzer		
	Restricted Funds	144,000	
ce.	Video Diagnostic Analysis System		
	Restricted Funds	154,000	
cf.	White Blood Cell Velocity Measurement System		
	Restricted Funds	126,000	
cg.	X-Ray Deffractometer with Area Detector		
	Restricted Funds		225,000
	Federal Funds		225,000
	Total		450,000
ch.	Array Processor/Parallel Processor		
	Restricted Funds		200,000
ci.	Broadcasting Facilities Equipment		
	Restricted Funds	250,000	
	Federal Funds	250,000	
	Total	500,000	
cj.	Client/Server System		
	Restricted Funds	200,000	200,000
ck.	Compressed Video Conferencing Room and Instructional Lab		
	Other Funds	446,000	
cl.	Computer File Server		
	Restricted Funds	220,000	220,000
cm.	Computer Processing System		
	Restricted Funds		3,000,000
cn.	Computer Workstations		
	Restricted Funds		500,000
co.	Dental Clinical Computer System		
	Restricted Funds	500,000	
cp.	Digital Communications Network		
	Restricted Funds	300,000	250,000
cq.	Disk Storage Sub-Systems		
	Restricted Funds	500,000	500,000
cr.	Electronic Medical Record		
	Restricted Funds	2,044,000	
cs.	Engineering/Scientific Processor		
	Restricted Funds	400,000	500,000
ct.	Expand Medical Information Technology Infrastructure		
	Restricted Funds	440,000	

	cu.	Fiber Optic LAN/Computer-Based Instruction System		
		Restricted Funds	427,000	
	cv.	Mid-Range Computer Systems		
		Restricted Funds	200,000	200,000
	cw.	Molecular Dynamics Software and Computer Workstation		
		Restricted Funds	63,000	
		Federal Funds	62,000	
		Total	125,000	
	cx.	Network Switching System		
		Restricted Funds	300,000	150,000
	cy.	Satellite Uplink		
		Restricted Funds	140,000	
		Federal Funds	240,000	
		Total	380,000	
	cz.	Telemarketing System		
		Restricted Funds	133,000	
	da.	Theoretical Research Computer System		
		Restricted Funds	54,000	
		Other Funds	50,000	
		Total	104,000	
12.		Western Kentucky University		
	a.	Americans with Disabilities Act Accessibility Projects		
		Restricted Funds	816,000	
	b.	Academic Complex Roof Replacement		
		Restricted Funds	400,000	
	c.	Agriculture Exposition Center HVAC Improvements Phase II		
		Restricted Funds	650,000	
	d.	Air Conditioning for Academic - Athletic No. 1		
		Restricted Funds	1,700,000	
	e.	Building Envelope/Exterior Door Deferred Maintenance Projects		
		Restricted Funds	444,000	
	f.	Campus Energy Conservation		
		Other Funds	2,165,000	
	g.	Cherry Hall Window Replacement		
		Restricted Funds	635,000	
	h.	Chiller Conversion (R-12 to R-123)		
		Restricted Funds	569,000	
	i.	Cooling Towers and Chiller Renovations		
		Restricted Funds	574,000	
	j.	Deferred Maintenance Pool-Auxiliary Enterprise		
		Restricted Funds	3,444,000	
	k.	E & G Buildings Interior Projects		
		Restricted Funds	487,000	
	l.	E & G Life Safety: Deferred Maintenance Projects		
		Restricted Funds	522,000	
	m.	Electrical Deferred Maintenance Projects		
		Restricted Funds	764,000	

n.	Equine Science Teaching Facility		
	Restricted Funds (1997-98 - $205,000)		
o.	Grise Hall/Tate Page Roof Replacement		
	Restricted Funds	808,000	
p.	HVAC/Plumbing Deferred Maintenance Projects		
	Restricted Funds	544,000	
q.	Ivan Wilson Center Chillers Replacement		
	Restricted Funds	500,000	
r.	Ivan Wilson Fine Arts Center Addition		
	Restricted Funds	1,209,000	
s.	Life Safety Fire Alarm Improvements		
	Restricted Funds	476,000	
t.	Postsecondary Education Improvement Act of 1997 Facility		
	Bond Funds	18,500,000	
u.	Property Acquisition		
	Restricted Funds		370,000
v.	Public Radio and Television Transmission Tower		
	Restricted Funds		615,000
w.	Renovation of Craig Alumni Center		
	Restricted Funds		250,000
x.	Renovation of Former Science Library in TCCW		
	Restricted Funds	639,000	
y.	Renovation of Theatre 100 in Gordon Wilson Hall		
	Restricted Funds		450,000
z.	Repair/Replacement of Walks and Lots		
	Restricted Funds	746,000	
aa.	Roof Repair/Replacement - Deferred Maintenance Projects		
	Restricted Funds	877,000	
ab.	Thompson Complex North Wing HVAC		
	Restricted Funds	1,375,000	
ac.	University Farms Improvements		
	Restricted Funds	750,000	
ad.	WKU Primary Electrical Service (State II)		
	Restricted Funds	1,500,000	
ae.	Western Kentucky University Alumni Center		
	Other Funds	1,200,000	10,800,000
af.	Window Repair/Replacement		
	Restricted Funds	596,000	
ag.	Americans with Disabilities Act Accessible Shuttle Buses		
	Restricted Funds	330,000	
ah.	Confocal Microscope		
	Restricted Funds		110,000
ai.	Mass Spectrometer		
	Restricted Funds	126,000	
aj.	Administrative Computing System Upgrade/Replacement		
	Restricted Funds	2,100,000	
ak.	Computing Network Expansion and Upgrade		

Restricted Funds	855,000	
al. Satellite Uplink		
Restricted Funds	426,000	
am. Telephone Infrastructure Upgrade		
Restricted Funds	750,000	
an. Video Server		
Restricted Funds	801,000	

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	1998-99	1999-00
1. Department of Insurance		
a. Franklin County - Lease		
2. Public Advocacy		
a. Franklin County - Lease		
3. Public Service Commission		
a. Franklin County - Lease		
b. Public Service Commission Building		
Bond Funds	1,100,000	

N. REVENUE

Budget Unit	1998-99	1999-00
1. Office of the Secretary		
a. Technology Infrastructure Support		
Investment Income	425,000	
b. Franklin County - Lease (100 Fair Oaks)		
c. Franklin County - Lease (200 Fair Oaks)		
d. Franklin County - Lease (Perimeter Park)		

O. TOURISM DEVELOPMENT CABINET

Budget Unit	1998-99	1999-00
The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.		
1. Kentucky State Fair Board		
a. Maintenance Pool		
Investment Income	300,000	
Restricted Funds	700,000	1,000,000
Total	1,000,000	1,000,000
b. Roof Replacement		
Restricted Funds	800,000	800,000
2. Department of Fish and Wildlife Resources		
a. Land Acquisition		
Restricted Funds	500,000	500,000
b. Maintenance Pool		
Restricted Funds	200,000	200,000
3. Kentucky Horse Park		
a. Additional Stalls		
Investment Income - Additional	435,000	
b. Maintenance Pool		
Investment Income	375,000	375,000
c. Capital Outlay		
General Fund	100,000	

d. National Horse Center - Infrastructure Development		
Capital Construction Surplus (1997-98 - $377,000)		
e. Primary Electric Line Renovation		
Investment Income	747,000	
4. Department of Parks		
a. Maintenance Pool		
Investment Income	4,200,000	4,200,000
b. Capital Outlay		
General Fund	2,000,000	
c. Technology - Capital Outlay		
General Fund	244,000	
5. Breaks Interstate Park		
a. Additional Lodge Rooms		
General Fund	1,350,000	

A General Fund appropriation up to $1,350,000 is provided contingent upon the Commonwealth of Virginia providing an appropriation which would be matched dollar for dollar up to the maximum amount.

P. TRANSPORTATION CABINET

Budget Unit	1998-99	1999-00
1. Department of Administrative Services		
a. Bowling Green District Office - Reauthorization/Modification ($1,400,000 - Road Fund)		
Road Fund - Additional	2,263,000	
b. Building Renovation and Emergency Repairs - Reauthorization		
Road Fund - Additional	500,000	500,000
c. Bullitt County Maintenance Facility		
Road Fund		845,000
d. Heating, Ventilation, and Cooling Maintenance and Repair		
Road Fund	200,000	200,000
e. Hopkins County Maintenance Facility		
Road Fund		645,000
f. Hydraulic Hoists for Heavy Equipment - Reauthorization		
Road Fund - Additional	50,000	100,000
g. Lewis County Maintenance Facility		
Road Fund	708,000	
h. Loadometer Station and Rest Area Maintenance and Repair		
Road Fund	400,000	400,000
i. Magoffin County Maintenance Facility - Reauthorization		
Road Fund - Additional	458,000	
j. Meade County Maintenance Facility - Reauthorization		
Road Fund - Additional	233,000	
k. Metcalfe County Maintenance Facility		
Road Fund	745,000	

l.	Painting and Roof Replacement		
	Road Fund	400,000	400,000
m.	Paving and Landscaping		
	Road Fund	100,000	100,000
n.	Pikeville District Office Addition		
	Road Fund		424,000
o.	Road Maintenance/Various Parks - Reauthorization		
	Road Fund - Additional	700,000	
p.	Road Resurfacing - Kentucky Horse Park		
	Road Fund	250,000	
q.	Transportation Cabinet Office Building - Reauthorization/Modification ($18,900,000 - Bond Funds)		
	Bond Funds - Additional	68,100,000	
r.	Various Environmental Site Investigations/Remediations - Reauthorization		
	Road Fund - Additional		500,000
s.	Various Maintenance Facilities - Secondary Structures		
	Road Fund	250,000	250,000
t.	Various Salt Storage Structures and Repair		
	Road Fund	250,000	250,000
u.	Various Waste Water Treatment and Water Supply Projects - Reauthorization		
	Road Fund-Additional	75,000	75,000
v.	Chemical Testing Equipment		
	Road Fund	175,000	
w.	Highway Design Microfilm Equipment		
	Road Fund	148,000	
x.	Nuclear Density Gauges		
	Road Fund	40,000	35,000
y.	Printing Press		
	Road Fund		204,000
z.	Superpave Testing Equipment		
	Road Fund	200,000	
aa.	Weigh In Motion/Traffic Data Collection Equipment (WIM/TCD)		
	Road Fund	292,000	301,000
ab.	Digitized Drivers Licensing		
	Road Fund	2,010,000	1,980,000
ac.	Vehicle Titling and Registration System (KVIS) - Technology Trust Fund		
	Road Fund		1,714,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit			1998-99	1999-00
1.	General Administration and Program Support			
	a.	Maintenance Pool		
		Investment Income	250,000	250,000
2.	Vocational Rehabilitation			

a. Franklin County - Lease		
3. Department for the Blind		
a. Franklin County - Lease		
4. Office of Training and Reemployment		
a. Franklin County - Lease		
5. Department for Employment Services		
a. Unemployment Insurance Imaging System		
Federal Funds	736,000	1,010,000
b. Unemployment Insurance Scanner		
Federal Funds	981,000	
6. Department for Technical Education		
a. Network Connectivity/Vesis Upgrade		
General Fund	2,100,000	

CAPITAL PROJECTS BUDGET PROVISIONS

1. All appropriations to existing line-item capital construction projects expire on June 30, 1998, unless reauthorized in this Act with the following exceptions: (1) a construction contract for the project shall have been awarded by June 30, 1998; (2) permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) grant or loan agreements, if applicable, have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this section, the disposition of 1996-98 appropriated major maintenance pools shall remain subject to the provisions of KRS 45.770(4)(c) and (d). Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 1998.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium so that preliminary work on the projects may proceed. However, debt service has been included beginning in fiscal year 1999-2000. Therefore, the sale of any permanent bonds to finance these projects shall occur after January 1, 1999.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding the provisions of KRS 48.720, KRS 48.010, or any section of this Act, any General Fund appropriation for the payment of debt service that may become excess as a direct result of the application of investment income earned on bond proceeds to debt service payments shall be transferred to the Deferred Maintenance Pool account. Unneeded debt service resulting due to any other circumstance shall lapse in accordance with KRS 48.720, KRS 48.010, and other provisions of this Act.

5. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction Investment Income account effective July 1, 1998.

6. The Council on Postsecondary Education subheading in this Part includes a project entitled "Agency Bond Pool." For the Agency Bond Pool, $35,000,000 in projects is authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 1998-2000 biennium.

The provisions of KRS 45.750 to 45.816 notwithstanding, capital construction projects at institutions of higher education involving no state or federal funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

7. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

8. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not

individually identified in this Act in the following areas: Repair of State-Owned Dams, Land Acquisition, Economic Development projects, Infrastructure projects, Asbestos Abatement projects, Technology Trust Fund projects, systems, and initiatives authorized in Part X of this Act, and the Council on Postsecondary Education Agency Bond Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Funds, State Enterprise Funds (State Parks, State Fair Board, Industries for the Blind, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Computer Services, Central Stores, Telecommunications, Prison Industries, Central Printing, Risk Management and Property Management) and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which include fees for board and room, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts or other Federal Funds received, income from investments and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 1998-99 or fiscal year 1999-2000, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400 to 48.800 and this Act, and with the authorization of the State Budget Director of the Governor's Office for Policy and Management and approval of the Secretary of the Finance and Administration Cabinet.

3. Except as otherwise provided in this Act, a budget unit may requisition for expenditure from its Restricted Funds accounts or Federal Funds accounts, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1999, and during the fiscal year ending June 30, 2000, all receipts placed to the credit of its funds accounts in each respective year, in addition to any balance which the budget unit may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for a variance which may exist.

4. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400 to 48.800. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

5. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

6. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become

available.

7. A state agency entitled to Federal Funds which would represent one hundred percent (100%) of the cost of a program shall conform to KRS 48.730.

8. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account.

9. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

10. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

11. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this Section, to the extent of the conflict, are suspended, unless otherwise provided by this Act.

12. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made herebefore or hereafter for the fiscal year ending June 30, 1998, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

13. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

14. The Secretary of the Finance and Administration Cabinet shall cause the Governor's Office for Policy and Management, within sixty (60) days upon adjournment of the 1998 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended State/Executive Budget, Judicial Budget and Legislative Budget as enacted by the 1998 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 1998-2000 biennium, and based upon supporting documentation and legislative records as considered by the 1998 Regular Session of the General Assembly and the statutory budget memorandum. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400 to 48.800, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

15. Pursuant to KRS 48.400, the Secretary of the Finance and Administration Cabinet shall monitor and report on the financial condition of the Commonwealth.

16. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

17. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

18. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 1998 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 1996 Regular Session to sine die adjournment of the 1998 Regular Session is not confirmed by the 1998 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 1997-98 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which

the program or function resided prior to the reorganization action or in which it was placed by action of the 1998 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

19. Notwithstanding KRS 48.705(2), there shall be no General Fund surplus revenue receipts or unexpended balances of appropriations deposited in the budget reserve trust fund account for fiscal year 1998-99 or fiscal year 1999-2000 except as otherwise provided in this Act. Existing funds in the account in an amount specified in this Act may be used as provided otherwise in this Act or as designated in Part VI, General Fund Budget Reduction Plan, if General Fund receipts during fiscal year 1998-99 or fiscal year 1999-2000 are not sufficient to meet the level of General Fund appropriations included in biennial budget bills or any enactment by the 1998 General Assembly which contains an appropriation provision.

20. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System from July 1, 1998, through June 30, 2000, shall be no more than 8.03 percent for non-hazardous duty employees and 18.66 percent for hazardous duty employees; for the same period, the employer contribution for employees of the State Police Retirement System shall be no more than 23.41 percent.

21. By August 15, 1999, the Finance and Administration Cabinet, in conjunction with the Consensus Forecast Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

22. By October 15, 1999, the Finance and Administration Cabinet shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

23. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 1998 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

24. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

25. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

26. It is the intent of the General Assembly that the Executive Branch implement actions necessary to achieve cost savings as intended, authorized, and directed by the 1996 Kentucky Acts, Chapter 380, Part X, by authorizing the Executive Branch the authority, within the limitations provided for in this Act, to transfer General Fund appropriation amounts related to Technology Trust Fund savings from one budget unit to another budget unit solely within the Cabinets for Families and Children, Finance and Administration, Health Services, Justice, Natural Resources and Environmental Protection, Workforce Development, and the Department of Education. Any transfer of General Fund appropriation amounts related to Technology Trust Fund savings from one budget unit to another budget unit shall be made only within each specified Cabinet and the Department of Education and shall be limited to the General Fund cost savings amounts identified in the 1998-2000 Executive Branch budget recommendation and executive records. The Secretary of any of the specified cabinets and the Commissioner of the Department of Education may submit requests to the State Budget Director of the Governor's Office for Policy and Management for the transfer of General Fund appropriation authority. Such requests shall specify the need for the transfer of General Fund appropriation authority and the manner in which such a transfer would better achieve the General Fund cost savings. Any transfers made under this provision for any of the cabinets identified above or the Department of Education shall result in no change to the total value of the General Fund cost savings amounts as identified in the 1998-2000 Executive Branch budget recommendation and executive records for the individual cabinets specified above or the Department of Education. Any transfer made under this provision shall be made pursuant to KRS 48.500 and shall be reported, in writing, to the Interim Joint Committee on Appropriations and Revenue.

27. It is the intent of the General Assembly that the Secretary of the Finance and Administration Cabinet, the Secretary of the Governor's Executive Cabinet, and the State Budget Director of the Governor's Office for Policy and Management shall implement actions for the Executive Branch necessary to achieve the General Fund cost savings intended and authorized by the 1996 Kentucky Acts, Chapter 380, Part X. The General Assembly hereby recognizes and ratifies the actions of the Secretary of the Finance and Administration Cabinet, upon recommendation of the State Budget Director of the Governor's Office for Policy and Management, revising the General Fund allotment schedule for fiscal year 1997-98 for purposes of making unavailable for expenditure General Fund allotments equal in value to the General Fund cost savings amounts identified in the 1998-2000 Executive Branch budget recommendation and executive records.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 1998-2000 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the

Commonwealth for the 1998-2000 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 1998, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of permanent and other equivalent employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Pursuant to KRS 18A.355, an increment of five percent (5%) is provided in both fiscal year 1998-99 and fiscal year 1999-2000 on the base salary or wages of each eligible state employee on his anniversary date.

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 1998-99 and fiscal year 1999-2000.

		1998-99	1999-00
1.	Fire and Tornado Insurance Fund (KRS 56.095; 56.150; 56.180)	2,000,000	2,000,000

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,169,065,000 in fiscal year 1998-99 and $6,469,702,000 in fiscal year 1999-2000 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Unappropriated funds available in the General Fund Surplus Account established in KRS 48.700 shall be applied toward the revenue shortfall.

(3) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(4) Excess General Fund appropriations derived from reduced debt service requirements pursuant to the provisions in this Act.

(5) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(6) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed twenty-five percent (25%) of the trust fund balance in fiscal year 1998-99 and fifty percent (50%) of the trust fund balance in fiscal year 1999-2000.

(7) If the actions contained in subsections (1) through (6) of this section are insufficient to eliminate the revenue

shortfall up to five percent (5%) of the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection and subject to the limit imposed under KRS 48.130 and 48.600.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is established a Road Fund Budget Reduction Plan for fiscal year 1998-99 and fiscal year 1999-2000. In the event of an actual or projected deficit in Road Fund revenue receipts of five percent (5%) or less than the revenue estimates of $1,021,407,900 in fiscal year 1998-99 and $1,062,707,300 in fiscal year 1999-2000 as determined under KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service in accordance with KRS 48.130. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Pursuant to KRS 48.140, there is established a plan for the expenditure of Road Fund tax receipts up to two and one-half percent (2.5%) in excess of the tax receipts estimate of $985,241,900 in fiscal year 1997-98 and $1,021,407,900 in fiscal year 1998-99 for the Road Fund as determined by KRS 48.120(3). This Road Fund Surplus Expenditure Plan provides for additional moneys for nonrecurring expenditures for which an appropriation was not made in this Act, or for a program or service authorized by law for which an appropriation was not made or which program was not fully funded.

The Secretary of the Finance and Administration Cabinet shall determine, after the close of fiscal year 1997-98 and fiscal year 1998-99, based on the official financial records of the Commonwealth, and in accordance with KRS 48.120, the amount of excess Road Fund tax receipts available for expenditure through this Road Fund Surplus Expenditure Plan. The amount of excess receipts available shall be determined after all allocations required by statutory Road Fund revenue sharing programs have been adjusted pursuant to the applicable statutes. The Secretary of the Finance and Administration Cabinet shall communicate this information to the Secretary of the Transportation Cabinet in a timely manner.

The Secretary of the Transportation Cabinet is authorized to expend these excess tax receipts up to the amount reported by the Secretary of the Finance and Administration Cabinet for the following purposes and in the following sequence: (1) If budgeted funds for state match are insufficient to fully match all available Federal Funds, excess Road Fund receipts are appropriated to match all additional Federal Funds which the state may be entitled to receive; and 2) all remaining excess receipts are appropriated to the State Construction program.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATION

1 ATTORNEY GENERAL

a. Legal Services Contracts: The Attorney General shall present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies shall agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services. Immediately upon the time of the agreement, twenty-five percent (25%) of the estimated total cost of the agreed cost of legal services shall be credited to a restricted fund account out of which expenditures may be made. Over the balance of the terms of the agreement, quarterly installments shall be credited to the account. The final quarterly payment shall be made within thirty (30) days of the completion of the legal agreement. A copy of the legal services agreement and financial terms shall be provided to the Finance and Administration Cabinet. The Finance and Administration Cabinet shall execute the financial arrangements as provided under this section, notwithstanding any other provision of the Kentucky Revised Statutes. State agencies shall submit any proposals for legal services to the Office of the Attorney General to determine if the legal services can be performed by the Attorney General.

If the Attorney General determines that the provisions in this section require additional staff positions, the Personnel Cabinet and the Governor's Office of Policy and Management shall take timely action to enable the Attorney General to recruit and employ the personnel the Attorney General has determined as necessary. Actions taken under the terms of this section shall be reviewed by the Interim Joint Committee on Appropriations and Revenue as provided in this Act.

b. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two (2) assistant deputy attorneys general at a rate less than that required in KRS 15.100.

c. In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095.

d. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

e. This Office shall request from the Governor's Office for Policy and Management and the Finance and Administration Cabinet reimbursement for actual administrative costs related to Asbestos Litigation Recovery. Reimbursement shall not exceed $20,000 for fiscal year 1997-98 and a total of $98,500 for fiscal biennium 1998-2000. Reimbursement is contingent on receipt and deposit of recoveries to the State Treasury after April 15, 1998, sufficient to fund such costs.

f. This Office may transfer funds appropriated for victim advocate grants for fiscal year 1998-99 and fiscal year 1999-2000 to the Unified Prosecutorial System's appropriation unit subject to approval by the Prosecutor's Advisory Council. Such transfer shall be submitted to the Governor's Office for Policy and Management, the Finance and Administration Cabinet, and the Interim Joint Committee on Appropriations and Revenue for approval.

2. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of one hundred twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" (OMB Circular No. A-128) has changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 1998 General Assembly, subject to the conditions and procedures provided in this Act.

Any additional expenses incurred by the Auditor of Public Accounts for auditing a state agency upon its request, or when the audit is not required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report, or the provisions contained in the "Single Audit Act of 1984", shall be charged to the agency requesting the audit.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon.

3. KENTUCKY RETIREMENT SYSTEMS

a. Contracting Legal Services: Notwithstanding KRS 61.645(11), the Kentucky Retirement Systems shall submit any proposals for legal services to the Department of Law to determine if the legal services can be performed by the Department of Law. The Kentucky Retirement Systems shall receive a written response from the Department of Law declining the work before a contract is entered into with a private attorney or law firm.

ECONOMIC DEVELOPMENT

4. OFFICE OF THE SECRETARY

a. East and West Kentucky Corporations' and Regional Offices' Strategic Plan: The East and West Kentucky Corporations shall each submit an annual plan to the Interim Joint Committee for Appropriations and Revenue and to the Cabinet for Economic Development defining and outlining their respective roles and responsibilities as they relate to, but do not duplicate, the programs of the Cabinet for Economic Development. The Cabinet for Economic Development shall provide to the Interim Joint Committee for Appropriations and Revenue an annual plan for the Regional Offices defining and outlining their efforts toward maximizing return on investments and reducing duplicative efforts with other regional development groups.

5. FINANCIAL INCENTIVES

a. Bluegrass State Skills Corporation: If legislation is enacted by the General Assembly to utilize training investment credits for workforce training, the Bluegrass State Skills Corporation shall submit quarterly progress reports of this program to the Legislative Research Commission for referral to appropriate committees.

6. COMMUNITY DEVELOPMENT

a. Regional Offices: The Regional Offices shall submit quarterly program and status reports to the Legislative Research Commission for referral to the appropriate committees.

DEPARTMENT OF EDUCATION

7. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: The General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) program are intended to provide a base guarantee of $2,839 per student in average daily attendance in fiscal year 1998-99 and $2,824 per student in average daily attendance in fiscal year 1999-2000 as well as to meet the other requirements of KRS 157.360. Funds allocated for the SEEK base and its adjustment factors and not needed for the base or a particular adjustment factor may be allocated to other adjustment factors if funds are insufficient. The following priority order shall be followed in any allocation: exceptional children, at-risk students, home and hospital instruction, and pupil transportation. Excess funds that exist after the SEEK base and all SEEK adjustment factors have been fully funded shall be reallocated on a pro rata average daily attendance (ADA) basis with forty percent (40%) of the excess funds for preschool education and sixty percent (60%) of the excess funds to those districts that provide a full day program for entry level students. If either the aggregate base SEEK program appropriations or the Tier I component appropriations in either year of the 1998-2000 fiscal biennium fall short of the amounts intended under KRS 157.310 to 157.430, KRS 157.440, or any other provision of this Act, any surplus funds from the base SEEK program or from the Tier I component may be transferred to the respective program or component experiencing the shortfall. Any transfer shall require approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet and the written request of the Commissioner of Education.

Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 et seq. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Minimum Statewide Salary Schedules: The following is the minimum statewide salary schedule for fiscal year 1998-99 and fiscal year 1999-2000.

Rank	I	II	III	IV	V
Experience					
0-3 years	25,200	22,580	19,910	17,150	15,810
4-9 years	27,840	25,200	22,580	17,150	15,810
10-14 years	31,260	28,600	25,950	17,150	15,810
15-19 years	32,260	29,610	26,950	17,150	15,810
20 years and over	32,760	30,110	27,450	17,150	15,810

8. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: The Department of Education may fill, through memoranda of agreement, not more than fifty percent (50%) of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

9. MANAGEMENT SUPPORT SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding the provisions of KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 1998-99 but shall be available if needed in fiscal year 1999-2000.

Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the sum of $2.00 per month per employee participating in the state-provided life and health insurance program in fiscal year 1998-99 and $2.25 per month per employee participating in the state-provided life and health insurance program in fiscal year 1999-2000 shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

10. LEARNING RESULTS SERVICES

a. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

b. Kentucky Education Technology System: The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

c. Distinguished Educators: Notwithstanding KRS Chapter 158 and KRS Chapter 161, all Distinguished Educators assigned to a school or district on or after July 1, 1998, shall receive a salary supplement of thirty-five percent (35%) of their annual salary for each year of service in that capacity. This salary supplement shall not be included in the total salary compensation calculation for any cost-of-living adjustment or retirement benefits to which the employee may be entitled.

11. LEARNING SUPPORT SERVICES

a. Family Resource and Youth Services Centers: Funds appropriated to establish Family Resource and Youth Services Centers shall be transferred in fiscal year 1998-99 and in fiscal year 1999-2000 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent (3%) of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. The Department of Education is authorized to retain $70,400 in fiscal year 1998-99 and $74,300 in fiscal year 1999-2000 from the funds appropriated for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

b. Education Professional Standards Board (EPSB): Notwithstanding any statute to the contrary, the EPSB may collect fees for the issuance of certifications. EPSB may charge the following fees at the corresponding amounts: issuance or reissuance (renewal) of regular certificate (to include all previously-issued certifications and endorsements) - $50; each transaction to add area(s) of certification or rank - $50; issuance of five-year substitute certificate - $15; issuance of duplicate certificate - $25; reissuance of limited certification - $35.

EDUCATION, ARTS, AND HUMANITIES

12. TEACHERS' RETIREMENT SYSTEM

a. Distinguished Educators Retirement Benefits: Notwithstanding KRS Chapter 158 and KRS Chapter 161, salary supplements received by persons selected as distinguished educators on or after July 1, 1998, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

13. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding the provisions of KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 1998-99 and fiscal year 1999-2000 shall be applied to the projects listed in the most current facility plan approved for the district by the State Board of Education and the funds shall be applied to projects in the priority order listed in the plan.

FAMILIES AND CHILDREN

14. CABINET FOR FAMILIES AND CHILDREN

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

15. SOCIAL INSURANCE - BENEFITS

a. Notwithstanding KRS 42.560, only those Restricted Funds necessary to supplement Federal Funds in order to maintain program levels as appropriated, are authorized from the Energy Trust Fund for fiscal year 1998-99 for the Home Energy Assistance and Weatherization programs.

FINANCE AND ADMINISTRATION

16. FINANCE AND ADMINISTRATION CABINET

a. Federally Assisted Wastewater Loan Fund and Federally Assisted Water Supply Revolving Fund: $9,351,000 in bonds is reauthorized for the Federally Assisted Wastewater Loan Fund and the Federally Assisted Water Supply Revolving Fund. The Secretary of the Finance and Administration Cabinet shall utilize the bond funds to maximize Federal Funds available for both funds.

HEALTH SERVICES

17. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

18. MEDICAID SERVICES - BENEFITS

a. Hospital Indigent Patient Reporting: Notwithstanding KRS 205.640(5)(d)1., hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Notwithstanding KRS 205.640(6), hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size type set as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Division of Licensing and Regulation shall include this provision in facilities' annual licensure inspection.

d. Indigent Care Posting: Any provider who receives payment from the Disproportionate Share Hospital Program shall post a sign conspicuously in the lobby, in at least a 16 point type set, stating that they participate in the Disproportionate Share Hospital Program and are consequently required to provide indigent care. Failure to comply with this provision shall result in suspension from the Disproportionate Share Hospital Program. The Division of Licensing and Regulation shall include this provision in facilities' annual licensure inspection.

e. Settlement of Obligations Incurred Prior to Prepaid Capitation: The Department is authorized to fulfill financial obligations incurred prior to implementation of prepaid capitation.

f. Disproportionate Share Hospital (DSH) Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the Federal Balanced Budget Act of 1997.

g. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Hospital Indigent Care Assurance Program (HICAP) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department of Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

19. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Computer System: Any unexpended dollars from the $3,000,000 budgeted in fiscal year 1997-98 for hardware, software, or any other enhancements to the Department for Mental Health/Mental Retardation's (MH/MR) computer system which would enable them to collect and monitor information from the MH/MR boards/centers and state facilities shall not lapse but carry forward into fiscal year 1998-99 and fiscal year 1999-2000 to continue for the same purpose, notwithstanding KRS 45.229.

JUSTICE

20. JUSTICE ADMINISTRATION

a. Legal Aid Restrictions: These funds shall be used for providing and arranging civil legal representation for eligible low-income Kentuckians who are currently underserved and for purposes consistent with federal law and regulations. These funds shall not be used for lobbying on issues related to abortion.

21. STATE POLICE

The Department of State Police is directed to apply a sufficient vacancy credit to achieve the following salary increases. All sworn officers shall receive a salary increase of $1000 in fiscal year 1998-99 and $250 in fiscal year 1999-2000. All dispatchers and arson investigators shall receive a salary increase of $750 in fiscal year 1998-99. A sufficient vacancy credit shall be maintained in fiscal year 1999-2000 to support continuation funding for this increase.

22. COMMUNITY SERVICES AND LOCAL FACILITIES

a. Authorization is given for the receipt and expenditure of $2,800,000 in General Fund appropriations in fiscal year 1997-98 from the Adult Institutions appropriation unit to the Community Services and Local Facilities appropriation unit in order to offset a fiscal year 1997-98 impending budget deficit. Due to the delayed opening of previously- authorized capital construction facilities, there exists a surplus of $2,800,000 in operating funds in Adult Institutions that will be used in Community Services and Local Facilities to offset the unbudgeted cost of housing additional inmates in county jails.

23. ADULT INSTITUTIONS

a. Authorization is given for the receipt and expenditure of $2,800,000 in General Fund appropriations in fiscal year 1997-98 from the Adult Institutions appropriation unit to the Community Services and Local Facilities appropriation unit in order to offset a fiscal year 1997-98 impending budget deficit. Due to the delayed opening of previously-authorized capital construction facilities, there exists a surplus of $2,800,000 in operating funds in Adult Institutions that will be used in Community Services and Local Facilities to offset the unbudgeted cost of housing additional inmates in county jails.

LABOR

24. GENERAL ADMINISTRATION AND SUPPORT

a. Monthly Reporting: The Labor Cabinet shall report monthly to the Interim Joint Committee on Appropriations and Revenue its monthly expenditures of Restricted Funds and the nature of the expenditures. Separate reporting shall be done by each department within the Labor Cabinet.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

25. GENERAL ADMINISTRATION AND SUPPORT

a. To the extent that the Secretary determines that the functions and responsibilities of the General Administration and Support budget unit can be performed with fewer positions than budgeted in fiscal biennium 1998-2000, the positions and savings realized by the reductions may be transferred to other budget units within the Cabinet to meet unanticipated workloads or increased demands. The Secretary shall recommend any proposed plan to the State Budget Director for review and concurrence prior to the transfer. Upon concurrence of the State Budget Director and prior to the transfer of the positions and funds, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

26. DEPARTMENT FOR NATURAL RESOURCES

a. To the extent that the Secretary determines that the functions and responsibilities of the Natural Resources budget unit can be performed with fewer positions than budgeted in fiscal biennium 1998-2000, the positions and savings realized by the reductions may be transferred to other budget units within the Cabinet to meet unanticipated workloads or increased demands. The Secretary shall recommend any proposed plan to the State Budget Director for review and concurrence prior to the transfer. Upon concurrence of the State Budget Director and prior to the transfer of the positions and funds, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

27. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. To the extent that the Secretary determines that the functions and responsibilities of the Environmental Protection budget unit can be performed with fewer positions than budgeted in fiscal biennium 1998-2000, the positions and savings realized by the reductions may be transferred to other budget units within the Cabinet to meet unanticipated workloads or increased demands. The Secretary shall recommend any proposed plan to the State Budget Director for review and concurrence prior to the transfer. Upon concurrence of the State Budget Director and prior to the transfer of the positions and funds, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

28. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. To the extent that the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted in fiscal biennium 1998-2000, the positions and savings realized by the reductions may be transferred to other budget units within the Cabinet to meet unanticipated workloads or increased demands. The Secretary shall recommend any proposed plan to the State Budget Director for review and concurrence prior to the transfer. Upon concurrence of the State Budget Director and prior to the transfer of the positions and funds, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

29. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Natural Resources and Environmental Protection Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

PUBLIC PROTECTION AND REGULATION

30. PUBLIC SERVICE COMMISSION

a. Public Service Commission Building: Proceeds from the sale of the Meter Lab Building at the University of

Kentucky shall be utilized exclusively for reducing the amount of bonds authorized for the construction of the new Public Service Commission building.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan not to exceed a total of $500,000,000 for fiscal years 1998-99 and 1999-2000 notwithstanding the provisions of KRS 48.140(1) and (2). Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance (General Fund Surplus Account) are appropriated to the following: the Budget Reserve Trust Fund established in KRS 48.705; a State Technology Projects Fund, as established in this Part of this Act; a School Technology Projects Fund as established in this Part of this Act; and a Statewide Infrastructure Fund as established in this Part of this Act. Collectively, these four funds comprise the General Fund Surplus Expenditure Plan for fiscal years 1998-99 and 1999-2000.

2. The General Fund amount appropriated to the Surplus Expenditure Plan from the undesignated fund balance in the General Fund at the close of fiscal year 1997-98 and fiscal year 1998-99 respectively shall not exceed a total of $500,000,000 for fiscal years 1998-99 and 1999-2000 combined. In the event that the undesignated fund balance in the General Fund at the close of fiscal year 1997-98 and at the close of fiscal year 1998-99 totals less than $500,000,000, the amount available for appropriation for fiscal year 1998-99 and for fiscal year 1999-2000 pursuant to this section shall be the total undesignated fund balance amount at June 30, 1998, and at June 30, 1999, for the respective years. These amounts are hereby appropriated in fiscal year 1998-99 and in fiscal year 1999-2000, and shall be allocated in the following manner: 20.00 percent to the Budget Reserve Trust Fund, not to exceed $100,000,000; 17.36 percent to the State Technology Projects Fund, not to exceed $86,800,000; 17.46 percent to the School Technology Projects Fund, not to exceed $87,300,000; and 45.18 percent to the Statewide Infrastructure Fund, not to exceed $225,900,000.

3. The Secretary of the Finance and Administration Cabinet shall determine, within thirty (30) days after the close of fiscal year 1997-98, and the close of fiscal year 1998-99, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 1998-99 and fiscal year 1999-2000.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 1998, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 1998-99 pursuant to the Plan.

Each Fund identified as part of the General Fund Surplus Expenditure Plan in this Part of this Act shall be appropriated its discrete percentage share of the total undesignated fund balance enumerated above. Project amounts are hereby appropriated in priority rank order for the individual funds set out above in this Part of this Act. Notwithstanding KRS 45.229, any funds appropriated pursuant to this Part of this Act in fiscal year 1998-99 shall not lapse, but shall carry forward and remain appropriated in fiscal year 1999-2000 in order to effectuate the terms of this Act.

4. To the extent that projects are enumerated in the priority ranking and sufficient General Fund moneys are not certified to be available for expenditure and appropriation in fiscal year 1998-99, the remaining projects in the same priority order set forth in this Part are appropriated from the actual General Fund undesignated fund balance for the General Fund Surplus Account effective July 1, 1999, for fiscal year 1999-2000.

5. Individual project priority rankings have been established within each of the four funds enumerated. Appropriations are hereby approved in the priority rank order for the projects listed within each fund enumerated below:

Priority	General Fund Surplus Appropriations		
I.	Budget Reserve Trust Fund		100,000,000
II.	State Technology Projects Fund		
Budget Unit			
1.	Workforce Development Cabinet - Department for Technical Education - Area Vocational Education Centers/Equipment	6,000,000	
2.	Justice Cabinet - Department of State Police - Automated Fingerprint System		5,800,000
3.	Justice Cabinet-Justice Administration - Unified Criminal Justice Information System		5,000,000
4.	Finance and Administration Cabinet - Technology Trust Fund	70,000,000	
	Subtotal		86,800,000
III.	School Technology Projects Fund		

	1. Kentucky Department of Education-Management Support Services - Kentucky Educational Technology System	87,300,000
IV.	Statewide Infrastructure Fund	225,900,000
	GRAND TOTAL	500,000,000

6. Notwithstanding KRS 48.140 and the provisions of Part X 1. to 5. above, if the total undesignated fund balance in the General Fund in fiscal year 1997-98 and 1998-99 respectively exceeds $500,000,000, there is appropriated in fiscal year 1999-2000 to the Budget Reserve Trust Fund an amount, in addition to the $100,000,000 above appropriation, that enables the Budget Reserve Trust Fund to contain a fund balance up to five percent (5%) of the actual General Fund revenue in fiscal year 1998-99.

The Technology Trust Fund identified in Part X 5. II. 4. above is the Technology Trust Fund established by the 1996 Kentucky Acts, Chapter 380, Part X, to empower Kentucky state government through technology and redesigned business systems. The following provisions apply to that Technology Trust Fund and any additional amounts made available and appropriated to it in this Part of this Act. It is separate and distinct from the new State Technology Projects Fund as established for the first time in this Part of this Act.

7. The General Assembly has determined that the following provisions shall apply to all General Fund appropriations in this Act to the Technology Trust Fund originally authorized and appropriated by the 1996 Kentucky Acts, Chapter 380, Part X.

a. The provisions of KRS 45.750 to 45.800; KRS 48.010(7), (9), (13)(c), (14)(a), 14(d), and 14(e); KRS 48.110(6); and KRS 48.190 notwithstanding, the Secretary of the Governor's Executive Cabinet is authorized to identify and select individual projects, initiatives, and systems necessary to improve service delivery at reduced costs through the use of technology. These provisions and this General Assembly determination to temporarily suspend or supersede any statute to the contrary are authorized in order to accomplish the public purpose of improving public service delivery at less public cost.

b. The provisions of KRS 45.750 to 45.800; KRS 48.010(7), (9), (13)(c), (14)(a), 14(d), and 14(e); KRS 48.110(6); and KRS 48.190 notwithstanding, in selecting projects eligible for expenditure from the appropriations provided, the Secretary shall rely upon the following standards and guidelines: 1) the foremost criteria for individual project or process selection shall be demonstrable cost savings on a recurring basis through the employment of technology and training which would improve service delivery; 2) appropriations made to the Technology Trust Fund can be applied and directed to both the operating and capital budget of affected agencies; 3) the decision-making and priority setting responsibilities for allocating these funds are vested in the Secretary of the Governor's Executive Cabinet, upon advice and consultation from the Redesign Steering Committee comprised of both Executive Branch and General Assembly members, and upon official authorization of the Secretary of the Finance and Administration Cabinet; 4) eligible projects, initiatives, and systems that receive Technology Trust Fund support may be selected from agency budget requests or the budget document and supportive workpapers developed in support of this Act. However, projects, initiatives, and systems so selected are not exclusively confined to the lists, requests, and plans just enumerated and may be developed by the Redesign Steering Committee cited above; 5) quarterly reports will be required to be made to the Legislative Research Commission and its committees to ensure proper oversight and accountability; 6) each individual system or initiative developed and supported from appropriations made available through the Technology Trust Fund established in this Act shall employ technology that is compatible with the information systems technology used by the General Assembly and Legislative Research Commission.

8. Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from a discrete account established for the individual project, initiative, or system item in the Operating Budget and the Capital Budget.

9. In addition to the General Fund appropriations in this Part for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Redesign Steering Committee. However, KRS 45.760(14), 45.770, 45.780, and 45.800 notwithstanding, no funds from the emergency repair, maintenance and replacement account or the capital construction and equipment purchase contingency account shall be used for Technology Trust Fund projects, systems, or initiatives.

10. Figures for amounts in all determinations, authorizations, and appropriations under the Plan shall be rounded to the lower hundredth dollar.

11. Notwithstanding KRS 45.229, appropriations from the General Fund for the projects, systems, and initiatives identified and authorized as part of the Plan shall be continued appropriations and not lapse to the General Fund. Appropriations made to components of the Plan in fiscal year 1998-99 shall be continued in fiscal year 1999-2000.

12. Nothing in this Part shall be construed as modifying, suspending, or superseding the Model Procurement Code as set forth in KRS Chapter 45A.

13. Nothing in this Part shall be construed as modifying, suspending, or superseding the provisions of KRS Chapter 18A of the merit system.

PART XI

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	1997-98	1998-99	1999-00
General Fund	15,400,500	5,960,048,500	6,256,334,500
Restricted Funds	3,985,900	2,801,980,900	2,799,098,500
Federal Funds		4,347,075,300	4,332,539,400
Road Fund	2,300,000	1,010,366,000	1,064,874,000
Bond Funds		100,000,000	105,000,000
Subtotal	21,686,400	14,219,470,700	14,557,846,400

CAPITAL PROJECTS BUDGET

	1997-98	1998-99	1999-00
General Fund		22,465,000	1,200,000
Restricted Funds	10,888,000	609,868,000	121,601,000
Federal Funds	621,000	79,266,000	8,871,000
Bond Funds	3,200,000	565,777,000	
Road Fund		10,447,000	8,923,000
Agency Bonds		91,525,000	
Capital Construction Surplus	1,477,000	1,462,000	
Investment Income	698,000	37,152,000	13,100,000
Other Funds	1,599,000	126,309,000	29,889,000
Subtotal	18,483,000	1,544,271,000	183,584,000

TOTAL STATE/EXECUTIVE BUDGET

	1997-98	1998-99	1999-00
General Fund	15,400,500	5,982,513,500	6,257,534,500
Restricted Funds	14,873,900	3,411,848,900	2,920,699,500
Federal Funds	621,000	4,426,341,300	4,341,410,400
Road Fund	2,300,000	1,020,813,000	1,073,797,000
Bond Funds	3,200,000	665,777,000	105,000,000
Agency Bonds		91,525,000	
Capital Construction Surplus	1,477,000	1,462,000	
Investment Income	698,000	37,152,000	13,100,000
Other Funds	1,599,000	126,309,000	29,889,000
TOTAL FUNDS	40,169,400	15,763,741,700	14,741,430,400

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

HJR 34, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 1998-00 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1998-00 State/Executive Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 1998-00 State/Executive Branch Budget Bill or the 1998-00 State/Executive Branch Budget Memorandum.

Section 3. The provisions of the 1998-00 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 1998-00 State/Executive Budget Bill or appropriations contained in any other enactment of the 1998 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 1998-00 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 1998-00 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 1998-00 State/Executive Branch Budget Bill shall prevail.

Section 4. Whereas the State/Executive Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

HJR 35, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 1998-00 Legislative Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1998-00 Legislative Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 1998-00 Legislative Branch Budget Bill or the 1998-00 Legislative Branch Budget Memorandum.

Section 3. The provisions of the 1998-00 Legislative Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 1998-00 Legislative Budget Bill or appropriations contained in any other enactment of the 1998 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 1998-00 Legislative Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 1998-00 Legislative Branch Budget Memorandum, the mandate, directive, or initiative contained in the 1998-00 Legislative Branch Budget Bill shall prevail.

Section 4. Whereas the Legislative Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

HJR 36, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 1998-00 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 1998-00 Judicial Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 1998-00 Judicial Branch Budget Bill or the 1998-00 Judicial Branch Budget Memorandum.

Section 3. The provisions of the 1998-00 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefor, shall not supersede appropriations contained in the 1998-00 Judicial Budget Bill or appropriations contained in any other enactment of the 1998 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 1998-00 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 1998-00 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 1998-00 Judicial Branch Budget Bill shall prevail.

Section 4. Whereas the Judicial Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that **HB 319, HB 320, HB 321, HJR 34, HJR 35,** and **HJR 36** be recommitted to Appropriations and Revenue. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Horlander moved that he be recorded as voting "yea" on **HB 155, HB 74, HB 673, HB 312, HB 593, HB 655, HB 656, HB 128, HB 645, HB 371, HB 621, HB 679, HB 521, HB 372, HB 598,** and **HB 454**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jordan moved that she be recorded as voting "yea" on **SB 63, HB 636, HB 537,** and **HB 611**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crall moved that his vote be changed from "nay" to "yea" on **HB 372**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 114, HB 298**, Representative Crenshaw; **HB 249**, Representative Hoover; **HB 703**, Representatives Damron, Maricle; **HB 709**, Representative Worthington; **HB 720**, Representative Heleringer; **HB 761**, Representative Jenkins; **HB 864**, Representative Sims; **HB 866, HB 867, HB 868**, Representative Murgatroyd.

Announcements

The following meeting was announced: Appropriations and Revenue, 2:00 p.m., March 9, 1998

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., March 9, 1998.

The motion to adjourn was adopted by voice vote.

MONDAY, MARCH 9, 1998

FORTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Anderson, Deskins, and Lovell.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 6, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 303**. Message received on **HB 86**: The Senate has passed **HB 86** with Senate Committee Amendment No. 1 and Senate Committee Amendment No. 3 and respectfully requests concurrence of this Honorable Body. (Time: 4:05 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Education: **SB 242, SB 332**

Transportation: **SB 354**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 128**

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 469**, by Representative Yonts:

On page 1, line 20, by deleting "*the lesser of*"; and

On page 1, by deleting lines 21 through 25 in their entirety; and

On page 2, line 1, by deleting all new language, and inserting the following:

(a) A minimum of three percent (3%); or

(b) The greater of the following amounts exceeding three percent (3%):

1. The percent increase in the average annual Consumer Price Index for all urban consumers between the two (2) most recent calendar years, as published by the United States Bureau of Labor Statistics; or

2. The percent increase of the base funding level in the program for support education excellence in Kentucky as defined in KRS 157.320

Floor Amendment No. 1 to **HB 535**, by Representative Yonts:

On page 5, by deleting lines 2 through 14 in their entirety, and inserting the following:

"(1) (a) From a list of applicants submitted by the local superintendent, the school council shall select certified personnel to fill vacancies. The school council shall not use undue influence or unethical tactics in the hiring of certified employees. Undue influence or unethical tactics shall include actions like the solicitation of applicants and making promises of employment before a position is created, becomes vacant, and is posted in accordance with Section 2 of this Act. The school council shall not delegate its responsibility to any committee to interview the applicants and make the decision on who is hired. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. The superintendent shall provide

additional applicants upon request when qualified applicants are available.

(b) The superintendent shall review the selection process for each person selected by the school council within fourteen (14) days of the selection to verify the selection process was conducted by the school council in accordance with this subsection. If he or she determines that the process was unduly influenced or unethical tactics were used, the superintendent shall declare the selection void and require the selection process to be reinstituted with the assurance that each applicant will be given due and just consideration. If the school council is unable to afford each applicant due and just consideration, the superintendent shall select the applicant to be hired.

(2) From a list of applicants submitted by the local superintendent, the principal shall select classified personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. Personnel decisions made at the school level under the authority of this section shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

Floor Amendment No. 1 to **SB 78**, by Representative A. Arnold:

On page 1, line 3, after the words "agree in writing," by inserting "*and, except for encumbrances or expenditures from the county's road fund,*"; and

On page 1, line 8, after the word "indebtedness." by inserting "*Prior to encumbering or expending any funds from the road fund during the first half of any fourth fiscal year which exceed sixty-five percent (65%) of the amount budgeted, the fiscal court shall assure that there are sufficient funds remaining in the general fund to provide for the excess encumbrance or expenditure from the road fund on a dollar for dollar basis. Those excess funds shall remain in the general fund until on or after January 1 of that fiscal year.*

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Health and Welfare: **HB 826, HB 785, HB 919, HB 922, SB 28, HB 883, HCR 126, SB 328**

Report of Committees

The Committee on Education reported **HB 484, HB 499, HB 519**, with Committee Substitute attached thereto, **HB 641, HB 642**, with Committee Substitute attached thereto, **HCR 7, HCR 11, HCR 15**, with Committee Substitute and Committee Amendment attached thereto, **HCR 16, HCR 17, HCR 18**, and **HCR 20** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 484, AN ACT relating to the primary program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) In this section, "primary school program" means that part of the elementary school program in which children are enrolled from the time they begin school until they are ready to enter the fourth grade. Notwithstanding any statute to the contrary, successful completion of the primary school program shall be a prerequisite for a child's entrance into fourth grade.

(2) The Kentucky Board of Education shall establish, by administrative regulation, methods of verifying successful completion of the primary school program in carrying out the goals of education as described in KRS 158.6451.

(3) The primary program shall include the following critical attributes: developmentally appropriate educational practices; multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement.

(4) Each school council or, if none exists, the school shall determine the organization of its ungraded primary program including the extent to which multiage groups are necessary to implement the critical attributes based on the critical attributes and meeting individual student needs.

(5) The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time and will allow for grouping of students attending their first year of school when determined to be developmentally appropriate.

(6) Data shall be collected by each school district on the number of students, in each school having a primary program,

who take five (5) years to complete the primary program. The data shall be reported in the annual performance report described in KRS 158.6453.

Section 2. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools***.***[~~, subject to the following conditions:~~

~~1. a. Procedures for developing an ungraded primary program as defined in KRS 158.030 which shall be implemented by the beginning of the 1992-93 school year, and the program, in its entirety, shall be fully implemented for all students who have not entered the fourth grade in every elementary school in every district by the beginning of the 1993-1994 school year, except as provided in subparagraph 1.b. of this paragraph. The primary program shall include the following critical attributes: developmentally appropriate educational practices, multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement. The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time and will allow for grouping of students attending their first year of school when determined to be developmentally appropriate.~~

~~b. A school council established pursuant to KRS 160.345 or if none exists, a school may determine, based on individual student needs, that implementing multiage and multiability classrooms need not apply for every grouping of students for every activity throughout the entire day. The school council or school shall revise the action plan to reflect any changes in the primary program's design.~~

~~2.~~]The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation.[~~ Prior to the beginning of the 1994-95 school year,~~] The ***Kentucky***[~~State~~] Board ***of***[~~for Elementary and Secondary~~] Education shall ***regularly*** review graduation requirements in light of the expected outcomes for students and schools set forth in KRS 158.6451;

(d) Taking, and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;

2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or

3. There is a finding of good cause for the waiver.

(b) Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools shall not be subject to waiver.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 3. KRS 158.030 is amended to read as follows:

[~~(1)~~]"Common school" means an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a certified teacher for a minimum school term as defined by KRS 158.070 and every child residing in the district who satisfies the age requirements of this section has had the privilege of attending it. Provided, however, that any child who is six (6) years of age, or who may become six (6) years of age by October 1, shall attend public school or qualify for an exemption as provided by KRS 159.030. Any child who is five (5) years of age, or who may become five (5) years of age by October 1, may enter a primary school program, as defined in ***Section 1 of this Act***[~~subsection (2) of this section~~].

[~~(2) "Primary school program" means that part of the elementary school program in which children are enrolled from the time they begin school until they are ready to enter the fourth grade. Notwithstanding any statute to the contrary, successful completion of the primary school program shall be a prerequisite for a child's entrance into fourth grade. The Kentucky Board of Education shall establish, by regulation, methods of verifying successful completion of the primary school program pursuant to the goals of education as described in KRS 158.6451.~~]

Section 4. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the division. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of five thousand dollars ($5,000) per year;

(b) A raffle or raffles for which the gross receipts do not exceed five thousand dollars ($5,000) per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed five thousand dollars ($5,000) per year.

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the division in writing, on a form issued by the division, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter, except:

(a) Payment of the fee imposed under the provisions of KRS 238.570; and

(b) The reporting requirements imposed under the provisions of KRS 238.550(2), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the division; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the division shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the division determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date

on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

(6) If the division determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities.

(8) In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030[~~(1)~~], as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure;

(c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the division, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "accomplishing its charitable purposes" means relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3); and

(d) Have maintained an office or place of business or operation, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered.

(9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming; and

(k) Any other information the division deems appropriate.

(10) The division may issue a limited license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(11) The division shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

(12) In order to continue to be qualified for licensure, a charitable organization shall continuously meet the requirements set forth in KRS 238.550(3) and (4). If a charitable organization is unable to meet those requirements, the division shall revoke the charitable organization's license or deny its application for renewal licensure by administrative action as provided in KRS 238.560.

HB 499, AN ACT relating to community college boards of directors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.005 is amended to read as follows:

(1) There is established the Governor's Postsecondary Education Nominating Committee which shall consist of seven (7) members representing each of the Supreme Court districts who shall be appointed by the Governor with the consent of the House of Representatives and the Senate. If the General Assembly is not in session at the time of appointment, the consent of the General Assembly shall be obtained during the time the General Assembly next convenes.

(2) (a) In order to be eligible to serve on the Governor's Postsecondary Education Nominating Committee, a member at the time of appointment shall have no conflict of interest pursuant to KRS 45A.340. In addition, no member shall have a relative employed by a public postsecondary institution, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television during his tenure on the committee. No more than two (2) persons holding an undergraduate degree from the same institution of higher education shall be members of the committee.

(b) The Governor shall make the appointments so as to reflect, inasmuch as possible, equal representation of the two (2) sexes and no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to assure that appointments reflect the minority racial composition of the Commonwealth. In filling vacancies to the committee, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.

(c) In selecting the members of the committee, the Governor shall solicit recommendations from each of the following:

1. Advisory Conference of Presidents;
2. Council on Postsecondary Education Student Advisory Committee;
3. Associations representing faculty from universities, technical institutions, and community colleges;
4. Associations representing university, technical institutions, and community college alumni;
5. Postsecondary education advocacy groups;
6. The Kentucky Board of Education;
7. Associations representing business and civic interests; and
8. Associations representing independent, nonprofit colleges and universities.

(3) (a) Members of the committee representing Supreme Court districts shall serve six (6) year terms and until a successor is appointed, except the initial appointments shall be as follows:

1. Two (2) members shall serve a two (2) year term;
2. Two (2) members shall serve a four (4) year term; and
3. Three (3) members shall serve a six (6) year term.

(b) The terms of the original appointees shall expire on April 14 in the year designated for the term, and the terms of each member appointed thereafter shall begin on April 15. Appointments shall be submitted to the Senate and to the House of Representatives for confirmation by February 1 in each year that a regular session of the General Assembly convenes. Each appointment shall be consented to by both chambers in order for the person to be confirmed. At the first regular meeting of the committee each fiscal year, a chairperson shall be selected by the membership.

(4) The members of the committee may be reimbursed for actual and necessary expenditures incurred in the performance of their duties. The expenses of the committee shall be paid out of the appropriation for the Governor's office.

(5) (a) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to a university governing board made pursuant to KRS 164.131, 164.321, and 164.821***, to the board of directors of each community college made pursuant to Section 2 of this Act,*** and to the Council on Postsecondary Education pursuant to KRS 164.011, except for the four (4) members of the Kentucky Community and Technical College System who shall be nominated by the board of trustees of the University of Kentucky under KRS 164.321. The committee shall not make recommendations for alumni, faculty, and staff appointments made pursuant to KRS 164.131***, Section 2 of this Act,*** and 164.821 and the student appointments made pursuant to KRS 164.131, 164.321, ***Section 2 of this Act,*** and 164.821. If more than one (1) equivalent gubernatorial appointment is being made to a governing board or the Council on Postsecondary Education at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The committee shall provide to the Governor, inasmuch as possible, an equal number of male and female nominees. If the Governor needs nominees of a particular sex in order to make an appointment, the committee shall only provide nominees of that sex. The Governor shall select the appointees from among the nominees.

(b) The committee shall be responsible for submitting three (3) nominations from which the Governor shall select each gubernatorial appointment to the Kentucky Authority for Educational Television made pursuant to KRS 168.040, the Kentucky Higher Education Assistance Authority pursuant to KRS 164.746, and the Kentucky Higher Education Student Loan Corporation pursuant to KRS 164A.050. If more than one (1) appointment is being made at the same time, the committee shall submit a number of nominees equal to three (3) times the number of vacancies. The Governor shall select the appointees from among the nominees.

(c) Nominations shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor shall make the appointment within sixty (60) days following receipt of the nominations. If the Governor does not make the appointment within sixty (60) days, the committee shall select one (1) of the nominees to serve.

(6) In making its nominations, the committee shall consider the needs of the respective institutions, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary.

(7) The Governor's office staff shall provide support services for the committee.

Section 2. KRS 164.600 is amended to read as follows:

(1) There shall be a board of directors for each community college under the Kentucky Community and Technical College System, except as provided in KRS 165.160. Each board of directors shall:

(a) Recommend one (1) candidate for the community college president from three (3) candidates provided by the president of the Kentucky Community and Technical College System. The president shall have the authority to make the final appointment and shall not be bound by the recommendation from the board of directors;

(b) Evaluate the community college president and advise the chancellor of his or her performance. The president has final authority for the appointment and termination of the community college president;

(c) Approve budget requests for recommendation to the Kentucky Community and Technical College System;

(d) Adopt and amend an annual operating budget and submit it to the board of regents of the Kentucky Community and Technical College System for approval as to the compliance with its guidelines;

(e) Approve and implement a strategic plan that is developed in coordination with local employers, civic leaders, campus constituents, and other postsecondary institutions in the region and that is consistent with the strategic agenda of the General Assembly.

(2) The president of each community college shall have full authority and discretion regarding the use and management of the budget approved by the board of regents for the Kentucky Community and Technical College System under KRS 164.350.

(3) Each board of directors shall consist of nine (9) members, seven (7) of whom shall be appointed by the Governor ***from nominees of the Governor's Postsecondary Education Nominating Committee under Section 1 of this Act*** for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The other two (2) board members shall be one (1) member of the teaching faculty and one (1) member of the student body. An appointed member's term shall be six (6) years.

(4) The faculty member shall be on the teaching or research faculty of the community college. He shall be elected by secret ballot of all full-time faculty members of the community college. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the boards if they cease to be members of the teaching staff of the community college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original election.

(5) The student member shall be the president of the student body of the community college. If the president of the student body is not a full-time student who maintains permanent residency in the Commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this Commonwealth as the student member.

(6) The members of the board of directors shall receive no compensation for their services, but shall be paid for their actual and necessary expenses.

(7) The board of regents of the Kentucky Community and Technical College System may extend this type of local governance authority to each postsecondary technical institution under its control, subject to review and approval by the Council on Postsecondary Education.

HB 519, AN ACT relating to students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that all students of the Commonwealth have a right to an appropriate and quality education in the public schools and the right to achieve the capacities under KRS 158.645. The General Assembly challenges all school personnel to take the necessary action to help each individual student complete elementary and secondary school with the capacities to transition successfully to adult life.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly declares that parents play a critical role in the education of their students. Parents have a major responsibility to assist in the education of their students and deserve respect and meaningful involvement in the decision-making process related to the students' education.

(2) Each exceptional student as defined in KRS 157.220 shall have an individual education plan that shall serve as the centerpiece of the student's educational career and the communication vehicle between the parents and school personnel. The plan shall enable the parents and school personnel to jointly decide the student's educational needs, the services needed to achieve those needs, and the anticipated results. The plan shall be used as a document to monitor the student's progress. School personnel shall provide the parents with reports of the progress toward the student's annual goals at least as often as report cards go to nondisabled students.

(3) The Kentucky Board of Education shall promulgate administrative regulations establishing procedures for the development and monitoring of individual education plans that are in compliance with the Federal Individuals with Disabilities Education Act, as amended. These administrative regulations shall be written in clear, easily understood language that is free of education jargon.

SECTION 3. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Education shall promulgate administrative regulations to establish the criteria for the Kentucky Special Education Mentor Program that shall be implemented by July 1, 1999. The designation of "Kentucky Special Education Mentor" shall be given to the state's most outstanding and highly skilled persons who are certified to teach or administer special education and who are willing to accept assignments in districts whose special education programs are found to be noncompliant with state or federal requirements. The assignments shall require the mentor to:

(a) Work in a district or school on a full-time or part-time basis for a designated period of time to assist the staff with creating and implementing its special education improvement plan as required in Section (5) of this Act. The mentor shall have the authority to review and amend decisions previously made by the district or school staff. If a Kentucky Distinguished Educator under KRS 158.782 is assigned to the same site as the mentor, the Kentucky Distinguished Educator and the mentor shall share responsibilities under policy of the Department of Education;

(b) Help to increase the effectiveness of the staff, parents, the civic and business community, and government and private agencies in improving the school's performance with exceptional students and other students at risk of school failure;

(c) Evaluate and make recommendations on the retention, dismissal, or transfer of certified staff in a noncompliant district or school;

(d) Recommend up to ten (10) additional work days annually for district and school personnel who work with exceptional students for planning, working with parents and guardians, curriculum development, or other activities that will help the district or school meet the goals of its improvement plan; and

(e) Complete an intensive training program, provided by the Department of Education and approved by the Kentucky Board of Education, prior to being assigned to assist a district's or school's staff with creating and

implementing its district or school improvement plan. The training program shall include but not be limited to instruction in the methods of personnel evaluation, district or school organization, curriculum, and assessment. The training shall be made available to local district personnel on a cost recovery basis.

(2) The Kentucky Special Education Mentor Program criteria shall include:

(a) A selection process that shall allow for self nomination, provide for a broad spectrum of instructional positions, and generate statewide representation. Nominations of qualified special educators who have retired since July 1, 1994 shall be considered. Special education professionals and representatives of various advocacy and constituent groups shall be included in the development of the selection process and the review of applicants;

(b) Each recipient shall receive a monetary award of two hundred fifty dollars ($250) when selected and shall also be paid in accordance with his or her current salary for other program requirements requiring additional days of employment under subsection (1) of this section. The Department of Education shall be responsible for all expenses incurred as a result of the Kentucky Special Education Mentor Program, except those expenses associated with the funding of the position of the person who replaces the Kentucky Special Education Mentor when that person is assigned to a noncompliant school or district;

(c) The Kentucky Special Education Mentor assigned to a noncompliant district or school shall receive a salary supplement of thirty-five percent (35%) of their base annual salary for each year of service in that capacity. Retired mentors shall be paid for their rank and experience on the district's salary schedule plus the salary supplement. The state board shall determine if reimbursement for vehicle mileage shall be allowed. If the assigned school achieves the threshold level in the next biennial review, the mentor shall receive his or her portion of the reward due to the entire staff calculated on his or her base salary regardless of decisions made by the school staff under to KRS 158.6455;

(d) The Kentucky Special Education Mentor shall be granted professional leave under KRS 161.770 for up to two (2) years if determined by the state board to be necessary. Kentucky Special Education Mentors shall not lose any employee benefits as a result of their special assignments to a school or district; and

(e) A Kentucky Special Education Mentor shall not be assigned to a school or to a district assignment in the district in which the educator is employed.

Section 4. KRS 156.095 is amended to read as follows:

(1) The Kentucky Board of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator. The manner of appointment, qualifications, and duties of the professional development coordinator shall be as established by Kentucky Board of Education regulations.

(3) The Kentucky Board of Education shall provide an annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment; instruction in methods to involve both teachers and administrators in actively planning, delivering, and evaluating programs; presenting options for meeting professional development needs, especially through individualized programs; and identification of resources needed for quality, motivational professional development programs.

(4) *During the 1998-1999 and 1999-2000 school years,* the Kentucky Board of Education shall *conduct an intensive statewide professional development program to address the characteristics and instructional needs of exceptional students and students at risk of school failure. The professional development shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with exceptional students and students at risk of school failure. The professional development for instructional personnel shall be designed to provide and enhance skills of personnel to:*

(a) Improve the academic achievement of exceptional students and students at risk of school failure;

(b) Significantly reduce the drop-out rate of all students; and

(c) Prepare all students for a successful transition to adult life~~[provide for a series of state sponsored, professional development programs for certified personnel throughout the Commonwealth. Professional development shall focus on the following areas during the 1990-91 and 1991-92 school years:~~

~~(a) The Kentucky Education Reform Act of 1990;~~

~~(b) School based decision making;~~

~~(c) Performance based student assessment;~~

~~(d) Nongraded primary programs;~~

~~(e) Research-based instructional practices;~~

~~(f) Instructional uses of technology; and~~

~~(g) Effective awareness and sensitivity training so teachers can motivate and nurture students of diverse cultures~~].

(5) ***The professional development under subsection (4) of this section shall be designed to be long-term with opportunities for follow-up training after practice and shall be based on best practices derived from educational research. It shall provide information about instructional materials, demonstration projects, and other successful models.*** The Department of Education shall provide professional development activities at times and locations which are convenient for school personnel***, but may arrange for personnel from more than one (1) district to participate at the same time***.~~[During the 1990-91 and 1991-92 school years, school districts shall use the four (4) days designated for professional development in KRS 158.070 to acquire skills and knowledge in the areas listed in subsection (4) of this section. The master professional development plan shall reflect the districts' choices from the required areas for the 1990-91 and 1991-92 school years. A district's master professional development plan which has been developed in conjunction with the district improvement plan pursuant to KRS 158.685, shall be exempt from the requirements of this subsection.]~~

(6) Local school districts with an enrollment of twenty thousand (20,000) or more students shall be exempt from the requirements of ***subsections (1), (2), and (3) of*** this section if they meet the standards for professional development established by the Kentucky Board of Education.

Section 5. KRS 157.200 is amended to read as follows:

(1) "Exceptional children and youth" means persons under twenty-one (21) years of age who differ in one (1) or more respects from average or normal children in physical, mental, learning, emotional, or social characteristics and abilities to such a degree that they need special educational programs or services for them to benefit from the regular or usual facilities or educational programs of the public schools in the districts in which they reside. The Department of Education, through administrative regulations promulgated by the Kentucky Board of Education, shall interpret the statutory definitions of exceptionality. An exceptionality is any trait so defined in this section by administrative regulations of the Kentucky Board of Education. Requirements of average daily attendance for exceptional classes shall be regulated by statute, or in the absence of direction by administrative regulations promulgated by the Kentucky Board of Education. Categories of exceptionalities included within, but not limited by, this definition are as follows:

(a) "Physically disabled or orthopedically impaired" means a severe orthopedic impairment which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes physical impairments caused by congenital anomaly, disease, and from other causes.

(b) "Other health impaired" means limited strength, vitality or alertness, due to a chronic or acute health problem which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. Chronic health problems may include, but are not be limited to, a heart condition, tuberculosis, sickle cell anemia, hemophilia, epilepsy, rheumatic fever, nephritis, asthma, lead poisoning, leukemia, diabetes, attention deficit disorder, attention deficit hyperactive disorder, or acquired immune deficiency syndrome.

(c) "Communication disorder or speech or language impaired" means a disorder in language, articulation, voice, or fluency, which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education.

(d) "Hearing impairment" means a physiological hearing loss:

1. Ranging from mild to profound, which is either permanent or fluctuating, and of such a degree that the pupil is impaired in the processing of linguistic information via the auditory channel either with or without amplification; or

2. That adversely affects educational performance so that specially designed instruction is required for the child or youth to benefit from education.

The term shall include both deaf and hard of hearing children.

(e) "Mental disability" means a deficit or delay in intellectual and adaptive behavior functioning, which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education, and which is typically manifested during the developmental period.

(f) "Specific learning disability" means a disorder in one (1) or more of the psychological processes primarily involved in understanding or using spoken or written language which selectively and significantly interferes with the acquisition, integration, or application of listening, speaking, reading, writing, reasoning, or mathematical abilities. The disorder is lifelong, intrinsic to the individual, and adversely affects educational performance to the extent that specially designed instruction is required in order for the pupil to benefit from education. The term does not include a learning problem which is the direct result of:

1. A hearing impairment;

2. Visual, physical, mental, or emotional-behavioral disabilities; or
3. Environmental, cultural, or economic differences.

(g) "Emotional-behavioral disability" means a condition characterized by behavioral excess or deficit which significantly interferes with a pupil's interpersonal relationships or learning process to the extent that it adversely affects educational performance so that specially designed instruction is required in order for the pupil to benefit from education.

(h) "Multiple disability" means a combination of two (2) or more disabilities resulting in significant learning, developmental, or behavioral and emotional problems, which adversely affects educational performance and, therefore, requires specially designed instruction in order for the pupil to benefit from education. A pupil is not considered to have a multiple disability if the adverse effect on educational performance is solely the result of deaf-blindness or the result of speech or language disability and one (1) other disabling condition.

(i) "Deaf-blind" means auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that the pupil cannot be appropriately educated in special education programs designed solely for pupils with hearing impairments, visual impairments, or severe disabilities, unless supplementary assistance is provided to address educational needs resulting from the two (2) disabilities.

(j) "Visually disabled" means a visual impairment, which, even with correction, adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes both partially seeing and blind pupils.

(k) "Developmental delay" means a significant discrepancy between a child's current level of performance in basic skills such as cognition, language or communication, self-help, social-emotional, or fine or gross motor, and the expected level of performance for that age. The term shall be used only with children ages three (3) through ***eight (8)***[~~five (5)~~].

(l) "Traumatic brain injury" means an acquired impairment to the neurological system resulting from an insult to the brain which adversely affects educational performance and causes temporary or permanent and partial or complete loss of:

1. Cognitive functioning;
2. Physical ability; or
3. Communication or social-behavioral interaction.

The term does not include a brain injury that is congenital or degenerative, or a brain injury induced by birth trauma.

(m) "Autism" means a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

1. Irregularity and impairment in communication;
2. Engagement in repetitive activity and stereotyped movement;
3. Resistance to environmental change or change in daily routine; and
4. Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability.

(n) "Gifted and talented student" means a pupil identified as possessing demonstrated or potential ability to perform at an exceptionally high level in general intellectual aptitude, specific academic aptitude, creative or divergent thinking, psychosocial or leadership skills, or in the visual or performing arts.

(2) "Special education" means specially designed instruction to meet the unique needs of an exceptional child or youth.

(3) "Special educational facilities" means physical facilities designed or adapted to meet the needs of exceptional children and youth, and approved according to regulations promulgated by the Kentucky Board of Education.

(4) "Related services" means such developmental, corrective, and other supportive services***, including personnel to provide the services,*** as are required to assist an exceptional child or youth to benefit from special education, and may include, but are not limited to, psychological services, physical and occupational therapy, identification and assessment of disabilities, counseling services, and medical services for diagnostic or evaluation purposes.

(5) "Transition services" means a coordinated set of activities for a pupil designed within an outcome-oriented process, that promotes movement from school to post-school activities. The term includes:

(a) Postsecondary education;

(b) Vocational training; and

(c) Integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.

The coordinated set of activities shall be based on the individual pupil's needs, taking into account the pupil's preferences and interests, and shall include instruction, community experience, the development of employment, and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

Section 6. KRS 157.224 is amended to read as follows:

(1) The Commonwealth of Kentucky is committed to providing a comprehensive educational program for its exceptional children and youth. The Department of Education coordinates, directs, and monitors that program. State direction and implementation of a statewide ***special***~~[exceptional]~~ education program is manifested in the biennial appropriation of funds to assure a quality educational opportunity for exceptional children and youth in existing, locally operated,~~[exceptional]~~ classrooms.

(2) All county and independent boards of education shall operate special education programs pursuant to an ***annual*** application which has been approved by the Kentucky Department of Education pursuant to standards set out in ***administrative*** regulations ***promulgated by***~~[of]~~ the Kentucky Board of Education. If any county or independent board of education fails to operate and implement special education programs in accordance with ***the standards***~~[that application]~~, the application of the county or independent board of education for funding pursuant to KRS 157.360 may be considered insufficient ***and the add-on funds generated under that statute shall be withheld under the provisions of subsections (5) and (6) of this section by the Kentucky Board of Education until the program is in compliance***. The superintendent of each local school district shall certify its enrollment of exceptional children and youth to the Department of Education. The department shall audit student enrollment and monitor local district compliance in accordance with Kentucky Board of Education administrative regulations.

(3) ***The Kentucky Board of Education administrative regulations shall set forth the data local school districts shall submit in their annual applications and reports. The data shall be reported in the same format as data submitted to the Department of Education for all other students and shall include, but not be limited to:***

(a) The number of students who are suspended, expelled, and quit school annually;

(b) The success of students placed in various classroom settings including, but not limited to, regular classrooms, resource rooms, self-contained classrooms, and vocational programs; and

(c) Information about students' successful transition to adult life.

(4) Local school districts and schools found to be noncompliant with state board administrative regulations shall develop an improvement plan that shall be submitted to the Department of Education for approval. Local school districts shall use specialized resources in the development of the plan which may include universities, regional resource centers, professional organizations, and constituent advocacy groups.

(5) There is hereby created a Special Education Trust Fund to receive the funds withheld under subsection (2) of this section and interest accrued from the funds invested. The funds and interest shall not lapse.

(6) Funds withheld under subsection (2) of this section shall be held for the district up to twelve (12) months before finally lapsing to the Special Education Trust Fund. Funds that lapse to the trust fund and the accrued interest shall be used by the Department of Education for statewide professional development under Section 4 of this Act.

(7) All administrative hearings conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B. The provisions of KRS Chapter 13B notwithstanding, the decision of the hearing officer in hearings under this section shall be the final order and shall be rendered within the time limit specified in 34 C.F.R. 300.512(a).

Section 7. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

(a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly;

(b) The number and types of exceptional children in the district as defined by KRS 157.200.~~[No later than October 1, 1993, specific weights for each category of exceptionality shall be developed by the Department of Education and shall be used in the calculation of the add-on factor for exceptional children. Prior to the development of the necessary weights,]~~ The General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs. ***Funds generated under this paragraph shall be spent to support the excess costs associated***

with the education of exceptional children who have an individual education plan and are placed by an admissions and release committee. The allowable excess costs shall be for related services as defined by KRS 157.200(4) and other services as may be determined by Kentucky Board of Education administrative regulations; and

(c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year. No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty-five percent (25%) in either year.

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);
4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education. Salary allotments for vocational agriculture teachers shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

(c) For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the Department of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

Section 8. KRS 159.140 is amended to read as follows:

The director of pupil personnel shall:

(1) Devote his entire time to the duties of his office;

(2) Enforce the compulsory attendance and census laws in the attendance district he serves;

(3) Acquaint the school with the home conditions of the ***student***[~~child~~], and the home with the work and advantages of the school;

(4) Ascertain the causes of irregular attendance and truancy, and seek the elimination of these causes;

(5) Secure the enrollment in school of all ***students***[~~children~~] who should be enrolled and keep all enrolled ***students***[~~children~~] in reasonably regular attendance;

(6) Visit the homes of ***students***[~~children~~] who are absent from school or who are reported to be in need of books, clothing, or parental care;

(7) ***Interview students and the parents of those students who quit school to determine the reasons for the decision. The interviews shall be conducted in a location that is nonthreatening for the students and parents and according to procedures and interview questions established by an administrative regulation promulgated by the Kentucky Board of Education. The questions shall be designed to provide data that can be used for local district and statewide research and decision-making. Data shall be reported annually to the local board of education and the Department of Education.***

(8) Report to the superintendent of schools in the district in which the ***student***[~~child~~] resides the number and cost of books and school supplies needed by any ***student***[~~child~~] whose parent, guardian, or custodian does not have sufficient income to furnish the child with the necessary books and school supplies;

(9)[~~(8)~~] Keep the records and make the reports that are required by law, by regulation of the Kentucky Board of Education, and by the superintendent and board of education.

Section 9. KRS 161.048 is amended to read as follows:

(1) There is hereby established an alternative certification program. The Educational Professional Standards Board shall promulgate administrative regulations establishing standards for local district training programs and the approval and evaluation process for these programs. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:

(a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four (4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.

(b) Pass written tests designated by the Education Professional Standards Board for:

1. General knowledge;

2. Communication skills; and

3. Knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.

(c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.

(2) Upon meeting the participation requirements as established in subsection (1) of this section, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030.

(3) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.

(4) Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive alternative certification for teaching at the secondary level:

(a) A master's degree or doctoral degree in the academic subject area for which certification is sought;

(b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic subject area for which certification is sought in a regionally- or nationally-accredited institution of higher education; and

(c) Successful completion of the teacher internship requirement imposed under KRS 161.030.

(5) Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive alternative certification for teaching programs for exceptional students:

(a) An out-of-state license to teach exceptional students;

(b) A bachelor's or master's degree in the area or closely related area for which certification is sought; and

(c) Successful completion of the teacher internship requirement required under KRS 161.030.

The Committee Substitute to **HB 519** is as follows:

AN ACT relating to students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The General Assembly declares that all students of the Commonwealth have a right to an appropriate and quality education in the public schools and the right to achieve the capacities under KRS 158.645. The General Assembly challenges all school personnel to take the necessary action to help each individual student complete elementary and secondary school with the capacities to transition successfully to adult life.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly declares that parents play a critical role in the education of their students. Parents have a major responsibility to assist in the education of their students and deserve respect and meaningful involvement in the decision-making process related to the students' education.

(2) Each exceptional student as defined in KRS 157.200 shall have an individual education plan that shall serve as the centerpiece of the student's educational career and the communication vehicle between the parents and school personnel. The plan shall enable the parents and school personnel to decide the student's educational needs, the services needed to achieve those needs, and the anticipated results. The plan shall be used as a document to monitor the student's progress. School personnel shall provide the parents with reports of the progress toward the student's annual goals at least as often as report cards go to nondisabled students.

(3) The Kentucky Board of Education shall promulgate administrative regulations establishing procedures for the development and monitoring of individual education plans that are in compliance with the Federal Individuals with Disabilities Education Act, as amended. These administrative regulations shall be written in clear, easily understood language that is free of education jargon.

SECTION 3. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Education shall promulgate administrative regulations to establish the criteria for the Kentucky Special Education Mentor Program that shall be implemented by July 1, 1999. The designation of "Kentucky Special Education Mentor" shall be given to the state's most outstanding and highly skilled persons who are certified to teach or administer special education and who are willing to accept assignments in districts whose special education programs are found to be noncompliant with state or federal requirements. The assignments shall require the mentor to:

(a) Work in a district or school on a full-time or part-time basis for a designated period of time to assist the staff with creating and implementing its special education improvement plan as required in Section (5) of this Act. The mentor shall have the authority to review and amend decisions previously made by the district or school staff. If a Kentucky Distinguished Educator under KRS 158.782 is assigned to the same site as the mentor, the Kentucky Distinguished Educator and the mentor shall share responsibilities under policy of the Department of Education;

(b) Help to increase the effectiveness of the staff, parents, the civic and business community, and government and private agencies in improving the school's performance with exceptional students and other students at risk of school failure;

(c) Evaluate and make recommendations on the retention, dismissal, or transfer of certified staff in a noncompliant district or school;

(d) Recommend up to ten (10) additional work days annually for district and school personnel who work with exceptional students for planning, working with parents and guardians, curriculum development, or other activities that will help the district or school meet the goals of its improvement plan; and

(e) Complete an intensive training program, provided by the Department of Education and approved by the Kentucky Board of Education, prior to being assigned to assist a district's or school's staff with creating and implementing its district or school improvement plan. The training program shall include but not be limited to instruction in the methods of personnel evaluation, district or school organization, curriculum, and assessment. The training shall be made available to local district personnel on a cost recovery basis.

(2) The Kentucky Special Education Mentor Program criteria shall include:

(a) A selection process that shall allow for self nomination, provide for a broad spectrum of instructional positions, and generate statewide representation. Nominations of qualified special educators who have retired since July 1, 1994 shall be considered. Special education professionals and representatives of various

advocacy and constituent groups shall be included in the development of the selection process and the review of applicants;

(b) Each recipient shall receive a monetary award of two hundred fifty dollars ($250) when selected and shall also be paid in accordance with his or her current salary for other program requirements requiring additional days of employment under subsection (1) of this section. The Department of Education shall be responsible for all expenses incurred as a result of the Kentucky Special Education Mentor Program, except those expenses associated with the funding of the position of the person who replaces the Kentucky Special Education Mentor when that person is assigned to a noncompliant school or district;

(c) The Kentucky Special Education Mentor assigned to a noncompliant district or school shall receive a salary supplement of thirty-five percent (35%) of their base annual salary for each year of service in that capacity. Retired mentors shall be paid for their rank and experience on the district's salary schedule plus the salary supplement. The state board shall determine if reimbursement for vehicle mileage shall be allowed. If the assigned school achieves the threshold level in the next biennial review, the mentor shall receive his or her portion of the reward due to the entire staff calculated on his or her base salary regardless of decisions made by the school staff under KRS 158.6455;

(d) The Kentucky Special Education Mentor shall be granted professional leave under KRS 161.770 for up to two (2) years if determined by the state board to be necessary. Kentucky Special Education Mentors shall not lose any employee benefits as a result of their special assignments to a school or district; and

(e) A Kentucky Special Education Mentor shall not be assigned to a school or to a district assignment in the district in which the educator is employed.

Section 4. KRS 156.095 is amended to read as follows:

(1) The Kentucky Board of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator. The manner of appointment, qualifications, and duties of the professional development coordinator shall be as established by Kentucky Board of Education regulations.

(3) The Kentucky Board of Education shall provide an annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment; instruction in methods to involve both teachers and administrators in actively planning, delivering, and evaluating programs; presenting options for meeting professional development needs, especially through individualized programs; and identification of resources needed for quality, motivational professional development programs.

(4) ***During the 1998-1999 and 1999-2000 school years,*** the Kentucky Board of Education shall ***conduct an intensive statewide professional development program to address the characteristics and instructional needs of exceptional students and students at risk of school failure. The professional development shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with exceptional students and students at risk of school failure. The professional development for instructional personnel shall be designed to provide and enhance skills of personnel to:***

(a) Improve the academic achievement of exceptional students and students at risk of school failure;

(b) Significantly reduce the drop-out rate of all students; and

(c) Prepare all students for a successful transition to adult life[~~provide for a series of state sponsored, professional development programs for certified personnel throughout the Commonwealth. Professional development shall focus on the following areas during the 1990-91 and 1991-92 school years:~~

~~(a) The Kentucky Education Reform Act of 1990;~~

~~(b) School-based decision making;~~

~~(c) Performance-based student assessment;~~

~~(d) Nongraded primary programs;~~

~~(e) Research-based instructional practices;~~

~~(f) Instructional uses of technology; and~~

~~(g) Effective awareness and sensitivity training so teachers can motivate and nurture students of diverse cultures~~].

(5) ***The professional development under subsection (4) of this section shall be designed to be long-term with opportunities for follow-up training after practice and shall be based on best practices derived from educational research. It shall provide information about instructional materials, demonstration projects, and other successful models.*** The Department of Education shall provide ***or approve*** professional development activities at times and

locations which are convenient for school personnel***, but may arrange for personnel from more than one (1) district to participate at the same time***.[~~During the 1990-91 and 1991-92 school years, school districts shall use the four (4) days designated for professional development in KRS 158.070 to acquire skills and knowledge in the areas listed in subsection (4) of this section. The master professional development plan shall reflect the districts' choices from the required areas for the 1990-91 and 1991-92 school years. A district's master professional development plan which has been developed in conjunction with the district improvement plan pursuant to KRS 158.685, shall be exempt from the requirements of this subsection.~~]

(6) Local school districts with an enrollment of twenty thousand (20,000) or more students shall be exempt from the requirements of ***subsections (1), (2), and (3) of*** this section if they meet the standards for professional development established by the Kentucky Board of Education.

Section 5. KRS 157.200 is amended to read as follows:

(1) "Exceptional children and youth" means persons under twenty-one (21) years of age who differ in one (1) or more respects from average or normal children in physical, mental, learning, emotional, or social characteristics and abilities to such a degree that they need special educational programs or services for them to benefit from the regular or usual facilities or educational programs of the public schools in the districts in which they reside. The Department of Education, through administrative regulations promulgated by the Kentucky Board of Education, shall interpret the statutory definitions of exceptionality. An exceptionality is any trait so defined in this section by administrative regulations of the Kentucky Board of Education. Requirements of average daily attendance for exceptional classes shall be regulated by statute, or in the absence of direction by administrative regulations promulgated by the Kentucky Board of Education. Categories of exceptionalities included within, but not limited by, this definition are as follows:

(a) "Physically disabled or orthopedically impaired" means a severe orthopedic impairment which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes physical impairments caused by congenital anomaly, disease, and from other causes.

(b) "Other health impaired" means limited strength, vitality or alertness, due to a chronic or acute health problem which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. Chronic health problems may include, but are not be limited to, a heart condition, tuberculosis, sickle cell anemia, hemophilia, epilepsy, rheumatic fever, nephritis, asthma, lead poisoning, leukemia, diabetes, attention deficit disorder, attention deficit hyperactive disorder, or acquired immune deficiency syndrome.

(c) "Communication disorder or speech or language impaired" means a disorder in language, articulation, voice, or fluency, which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education.

(d) "Hearing impairment" means a physiological hearing loss:

1. Ranging from mild to profound, which is either permanent or fluctuating, and of such a degree that the pupil is impaired in the processing of linguistic information via the auditory channel either with or without amplification; or
2. That adversely affects educational performance so that specially designed instruction is required for the child or youth to benefit from education.

The term shall include both deaf and hard of hearing children.

(e) "Mental disability" means a deficit or delay in intellectual and adaptive behavior functioning, which adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education, and which is typically manifested during the developmental period.

(f) "Specific learning disability" means a disorder in one (1) or more of the psychological processes primarily involved in understanding or using spoken or written language which selectively and significantly interferes with the acquisition, integration, or application of listening, speaking, reading, writing, reasoning, or mathematical abilities. The disorder is lifelong, intrinsic to the individual, and adversely affects educational performance to the extent that specially designed instruction is required in order for the pupil to benefit from education. The term does not include a learning problem which is the direct result of:

1. A hearing impairment;
2. Visual, physical, mental, or emotional-behavioral disabilities; or
3. Environmental, cultural, or economic differences.

(g) "Emotional-behavioral disability" means a condition characterized by behavioral excess or deficit which significantly interferes with a pupil's interpersonal relationships or learning process to the extent that it adversely affects educational performance so that specially designed instruction is required in order for the pupil to benefit from education.

(h) "Multiple disability" means a combination of two (2) or more disabilities resulting in significant learning, developmental, or behavioral and emotional problems, which adversely affects educational performance and, therefore, requires specially designed instruction in order for the pupil to benefit from education. A pupil is not considered to have a multiple disability if the adverse effect on educational performance is solely the result of deaf-blindness or the result of speech or language disability and one (1) other disabling condition.

(i) "Deaf-blind" means auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that the pupil cannot be appropriately educated in special education programs designed solely for pupils with hearing impairments, visual impairments, or severe disabilities, unless supplementary assistance is provided to address educational needs resulting from the two (2) disabilities.

(j) "Visually disabled" means a visual impairment, which, even with correction, adversely affects educational performance to the extent that specially designed instruction is required for the pupil to benefit from education. The term includes both partially seeing and blind pupils.

(k) "Developmental delay" means a significant discrepancy between a child's current level of performance in basic skills such as cognition, language or communication, self-help, social-emotional, or fine or gross motor, and the expected level of performance for that age. The term shall be used only with children ages three (3) through ***eight (8)***[~~five (5)~~].

(l) "Traumatic brain injury" means an acquired impairment to the neurological system resulting from an insult to the brain which adversely affects educational performance and causes temporary or permanent and partial or complete loss of:

1. Cognitive functioning;
2. Physical ability; or
3. Communication or social-behavioral interaction.

The term does not include a brain injury that is congenital or degenerative, or a brain injury induced by birth trauma.

(m) "Autism" means a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three (3), that adversely affects educational performance. Characteristics of autism include:

1. Irregularity and impairment in communication;
2. Engagement in repetitive activity and stereotyped movement;
3. Resistance to environmental change or change in daily routine; and
4. Unusual responses to sensory experience.

The term does not include children with characteristics of an emotional-behavioral disability.

(n) "Gifted and talented student" means a pupil identified as possessing demonstrated or potential ability to perform at an exceptionally high level in general intellectual aptitude, specific academic aptitude, creative or divergent thinking, psychosocial or leadership skills, or in the visual or performing arts.

(2) "Special education" means specially designed instruction to meet the unique needs of an exceptional child or youth.

(3) "Special educational facilities" means physical facilities designed or adapted to meet the needs of exceptional children and youth, and approved according to regulations promulgated by the Kentucky Board of Education.

(4) "Related services" means such developmental, corrective, and other supportive services***, including personnel to provide the services,*** as are required to assist an exceptional child or youth to benefit from special education, and may include, but are not limited to, psychological services, physical and occupational therapy, identification and assessment of disabilities, counseling services, and medical services for diagnostic or evaluation purposes.

(5) "Transition services" means a coordinated set of activities for a pupil designed within an outcome-oriented process, that promotes movement from school to post-school activities. The term includes:

(a) Postsecondary education;
(b) Vocational training; and
(c) Integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation.

The coordinated set of activities shall be based on the individual pupil's needs, taking into account the pupil's preferences and interests, and shall include instruction, community experience, the development of employment, and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

Section 6. KRS 157.224 is amended to read as follows:

(1) The Commonwealth of Kentucky is committed to providing a comprehensive educational program for its exceptional

children and youth. The Department of Education coordinates, directs, and monitors that program. State direction and implementation of a statewide ***special***[~~exceptional~~] education program is manifested in the biennial appropriation of funds to assure a quality educational opportunity for exceptional children and youth in existing, locally operated,[~~ exceptional~~] classrooms.

(2) All county and independent boards of education shall operate special education programs pursuant to an ***annual*** application which has been approved by the Kentucky Department of Education pursuant to standards set out in ***administrative*** regulations ***promulgated by***[~~of~~] the Kentucky Board of Education. If any county or independent board of education fails to operate and implement special education programs in accordance with ***the standards***[~~that application~~], the application of the county or independent board of education for funding pursuant to KRS 157.360 may be considered insufficient ***and the add-on funds generated under that statute shall be withheld under the provisions of subsections (5) and (6) of this section by the Kentucky Board of Education until the program is in compliance with all substantive requirements designed to ensure that students with disabilities receive an appropriate education under the Federal Individuals with Disabilities Education Act, as amended***. The superintendent of each local school district shall certify its enrollment of exceptional children and youth to the Department of Education. The department shall audit student enrollment and monitor local district compliance in accordance with Kentucky Board of Education administrative regulations.

(3) ***The Kentucky Board of Education administrative regulations shall set forth the data local school districts shall submit in their annual applications and reports. The data shall be reported in the same format as data submitted to the Department of Education for all other students and shall include, but not be limited to:***

(a) The number of students who are suspended, expelled, and quit school annually;

(b) The success of students placed in various classroom settings including, but not limited to, regular classrooms, resource rooms, self-contained classrooms, and vocational programs; and

(c) Information about students' successful transition to adult life.

(4) Local school districts and schools found to be noncompliant with state board administrative regulations shall develop an improvement plan that shall be submitted to the Department of Education for approval. Local school districts shall use specialized resources in the development of the plan which may include universities, regional resource centers, professional organizations, and constituent advocacy groups.

(5) There is hereby created a Special Education Trust Fund to receive the funds withheld under subsection (2) of this section and interest accrued from the funds invested. The funds and interest shall not lapse.

(6) Funds withheld under subsection (2) of this section shall be held for the district up to twelve (12) months before finally lapsing to the Special Education Trust Fund. Funds that lapse to the trust fund and the accrued interest shall be used by the Department of Education for statewide professional development under Section 4 of this Act.

(7) All administrative hearings conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B. The provisions of KRS Chapter 13B notwithstanding, the decision of the hearing officer in hearings under this section shall be the final order and shall be rendered within the time limit specified in 34 C.F.R. 300.512(a).

Section 7. KRS 159.140 is amended to read as follows:

The director of pupil personnel shall:

(1) Devote his entire time to the duties of his office;

(2) Enforce the compulsory attendance and census laws in the attendance district he serves;

(3) Acquaint the school with the home conditions of the ***student***[~~child~~], and the home with the work and advantages of the school;

(4) Ascertain the causes of irregular attendance and truancy, and seek the elimination of these causes;

(5) Secure the enrollment in school of all ***students***[~~children~~] who should be enrolled and keep all enrolled ***students***[~~children~~] in reasonably regular attendance;

(6) Visit the homes of ***students***[~~children~~] who are absent from school or who are reported to be in need of books, clothing, or parental care;

(7) ***Interview students and the parents of those students who quit school to determine the reasons for the decision. The interviews shall be conducted in a location that is nonthreatening for the students and parents and according to procedures and interview questions established by an administrative regulation promulgated by the Kentucky Board of Education. The questions shall be designed to provide data that can be used for local district and statewide research and decision-making. Data shall be reported annually to the local board of education and the Department of Education.***

(8) Report to the superintendent of schools in the district in which the ***student***[~~child~~] resides the number and cost of books and school supplies needed by any ***student***[~~child~~] whose parent, guardian, or custodian does not have sufficient income to furnish the child with the necessary books and school supplies;

(9)~~[(8)]~~ Keep the records and make the reports that are required by law, by regulation of the Kentucky Board of Education, and by the superintendent and board of education.

Section 8. KRS 161.048 is amended to read as follows:

(1) There is hereby established an alternative certification program. The Educational Professional Standards Board shall promulgate administrative regulations establishing standards for local district training programs and the approval and evaluation process for these programs. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:

(a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four (4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.

(b) Pass written tests designated by the Education Professional Standards Board for:

1. General knowledge;

2. Communication skills; and

3. Knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.

(c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.

(2) Upon meeting the participation requirements as established in subsection (1) of this section, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030.

(3) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.

(4) Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive alternative certification for teaching at the secondary level:

(a) A master's degree or doctoral degree in the academic subject area for which certification is sought;

(b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic subject area for which certification is sought in a regionally- or nationally-accredited institution of higher education; and

(c) Successful completion of the teacher internship requirement imposed under KRS 161.030.

(5) Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students:

(a) An out-of-state license to teach exceptional students;

(b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and

(c) Successful completion of the teacher internship requirement required under KRS 161.030.

Section 9. The Office of Education Accountability is directed to conduct a review of the state and federal paperwork requirements for local school districts, supervisors, and teachers as they provide education programs for students with disabilities and make recommendations for reducing the time involved. This review shall include the extent to which technology is, or could be used, to reduce the burden of the requirements. The review shall be completed and recommendations made to the Interim Joint Committee on Education no later than October, 1998.

HB 641, AN ACT relating to teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;

(b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents, grandparents, and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and

(d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill, that the teacher was absent for the purpose of attending to a member of his immediate family who was ill, or for the purpose of mourning a member of his immediate family. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district after June 30, 1985.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) Any school employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.

(6) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.

(7) ***(a) A district board of education shall establish a sick leave donation program to permit teachers to voluntarily contribute sick leave to teachers in the same school district who are in need of an extended absence from school. A teacher who has accrued more than fifteen (15) days sick leave may request the board of education to transfer a designated amount of sick leave to another teacher who is authorized to receive the sick leave donated. A teacher may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.***

(b) A teacher may receive donations of sick leave if:

1. The teacher or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher to be absent for at least ten (10) days;

2. The teacher's need for the absence and use of leave are certified by a licensed physician;

3. The teacher has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and

4. The teacher has complied with the school district's policies governing the use of sick leave.

(c) While an employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.

(d) Any sick leave that remains unused, is not needed by a teacher, and will not be needed in the future shall be returned to the teacher donating the sick leave.

(e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.

(8) A teacher may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.

(9)[~~(8)~~] After July 1, 1982, a district board of education may compensate, at the time of retirement, an employee or a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.

(10)[~~(9)~~] Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection ***(9)***[~~(8)~~] of this section.

Section 2. KRS 161.623 is amended to read as follows:

(1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active teacher for unused sick-leave days in accordance with this section.

(2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. Such sick-leave credit shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 161.600.

(3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

(4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155***(9)***[~~(8)~~] or any other statutory provision.

(5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

(6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.

HB 642, AN ACT relating to instructional materials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.400 is amended to read as follows:

(1) The chief state school officer shall arrange the elementary***, middle,*** and secondary school subjects included in the state ***program***[~~courses~~] of study as prescribed by the Kentucky Board of Education into six (6) adoption groups.

(2) Contracts for each of the six (6) adoption groups shall be for a period of six (6) years and shall be executed on a staggered basis, with one (1) group being up for adoption each year. The six (6) adoption groups shall be ***arranged by content similarities when appropriate while being*** arranged as nearly equal in number and purchase cost as possible. Subjects with rapidly changing or highly technical content may be considered more frequently than once during a six (6) year cycle.

(3) The chief state school officer may delay the purchase of books due to insufficient funds, but any purchases of books shall be in accordance with KRS Chapter 156.

Section 2. KRS 156.405 is amended to read as follows:

(1) ***The Kentucky Department of Education shall develop and publish an instrument based upon both general and specific criteria that is suitable for the evaluation of textbooks, programs, and instructional materials offered in lieu of basal texts. The Kentucky Board of Education shall promulgate administrative regulations establishing procedures for:***

(a) The review of materials in terms of suitability, freedom from bias, and adherence to state law; and

(b) The development and publication of a consumer guide to textbooks, programs, and instructional materials offered in lieu of basal texts.

[~~The purpose of the State Textbook Commission is to provide a list of current and high quality textbooks to local school districts, which complement the educational program in Kentucky schools, and to provide for public participation in the adoption process.~~]

(2) [~~The State Textbook Commission shall consist of the chief state school officer and eleven (11) appointive members. The eleven (11) members shall be appointed by the Kentucky Board of Education upon the recommendation of the chief state school officer for terms of four (4) years with two (2) appointments each year, except that every fourth year there shall be five (5) appointments. No member shall be eligible to serve more than two (2) full terms consecutively. All vacancies that occur on the State Textbook Commission shall be filled in like manner for the remainder of the unexpired terms.~~]The ***Department of Education***[~~State Textbook Commission~~] shall receive assistance in the textbook ***evaluation***[~~selection~~] process from professionals and lay citizens who will[~~ serve on a contractual basis and~~] be referred to in this chapter as the "textbook reviewers."

(3) The ***Department of Education***[~~State Textbook Commission~~] shall:

(a) Select and direct the activities of the textbook reviewers who develop ***the evaluation instrument for the***[~~selection criteria and~~] review ***and evaluation of*** textbooks***, text***[~~ and~~] programs ***and instructional materials offered in lieu of basal texts and who review the materials for suitability, freedom from bias, and adherence to state law***;

(b) ***Edit and assemble evaluations of text materials into a consumer guide to textbooks programs and instructional materials appropriate for use as the primary means of instruction in the primary through grade twelve (12) classrooms; and***[~~Develop selection criteria and evaluation forms with the help of the textbook reviewers to be used in the state level selection process~~];

(c) ***Publish and distribute the consumer's guide to Kentucky public schools***[~~Approve the evaluative criteria and forms used by the commission and textbook reviewers;~~

~~(d) Review the textbook reviewers' evaluations, and textbooks or programs as it deems necessary, in order to select from them a list of high quality books;~~

~~(e) Select, approve, and publish a list of high quality textbooks~~].

(4) ***It shall be the responsibility of the State Textbook Commission to consider requests to amend the proposed state textbook bid list. The commission shall conduct an annual open meeting, after the textbook review is completed and before the state textbook bid list has been established, to receive and consider concerns of any individual or organization regarding the inclusion or exclusion of textbooks, text programs, or instructional materials offered in lieu of basal texts. The commission shall add or remove textbooks or instructional materials from the proposed state textbook bid list, based upon evidence and arguments presented concerning the textbook or instructional material's suitability, presence or absence of bias, and adherence to state law. When the commission has acted, the amended list shall become the official state textbook bid list.***

(5) The State Textbook Commission shall consist of eleven (11) members appointed by the Kentucky Board of Education upon the recommendation of the chief state school officer for terms of four (4) years. All persons appointed prior to the effective date of this Act shall serve until the expiration of their term. Subsequent appointments shall be filled in accordance with criteria established in this section, with the initial two (2) appointments made in 1999, and three (3) appointments each year, except that every fourth year there shall be two (2) appointments. No member shall be eligible to serve more than two (2) full terms consecutively. All vacancies on the commission shall be filled in a like manner for the remainder of the unexpired term.

(6) The textbook reviewers shall be comprised of twelve (12) individuals for the area or areas being considered for adoption. The textbook reviewers shall be approved by the ***chief state school officer***[~~State Textbook Commission~~] based on the recommendation of the ***Department of Education***[~~chief state school officer~~].

[~~(5) The textbook reviewers shall:~~

~~(a) Develop and submit to the commission subject specific evaluative criteria to be used in reviewing textbooks;~~

~~(b) Review textbooks and programs to determine those of high quality, using evaluative criteria and forms approved by the commission;~~

~~(c) Submit to the commission reviews and evaluative forms regarding reviewed textbooks and programs; and,~~

~~(d) Attend meetings and training sessions as requested by the commission and the Department of Education.~~]

(7)[~~(6)~~] ***Seven (7)***[~~Eight (8)~~] of the appointive members of the State Textbook Commission shall have had not less than five (5) years' teaching or supervising experience in the public schools of Kentucky and must have had at the time of their appointment at least four (4) years of college training in a recognized institution of higher education. Five (5) ***of these seven (7)*** members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books. Two (2) ***of these seven (7)*** members shall be principals, supervisors, or superintendents of public schools or public school systems. One (1) member shall be a member of the faculty of a public institution of higher education engaged in teacher ***preparation***~~[education]~~. One (1) member shall be ***a member of a school-based decision making council at a Kentucky public school***~~[the executive director of the Kentucky Educational Publishers Association or any other legitimate trade association of textbook publishers recognized by the Kentucky Board of Education, but shall not represent any particular publisher. This member shall have no vote but may otherwise participate in the business of the commission]~~. Two (2) members shall be lay citizens. In recommending the members of the State Textbook Commission the chief state school officer shall give due regard to representation from rural and urban areas and both elementary and secondary levels when both educational levels are included in the subject field or fields for which adoptions are to be made. The lay citizens shall have children in the public elementary or secondary schools at the time of appointment.

(8)~~[(7)]~~ Textbook reviewers shall have the following qualifications: Six (6) of the textbook reviewers shall be instructional supervisors and classroom teachers in various and appropriate grade levels primary through grade twelve (12), with experience and training in the subject areas to be reviewed. One (1) reviewer shall have expertise and training in learning theory as applied to the classroom situation. One (1) reviewer shall be a current or former university faculty member with expertise in the content area of the textbooks to be reviewed. One (1) reviewer shall have experience and training in readability and formatting of textbooks. Three (3) reviewers shall be parents of children currently enrolled in public schools in Kentucky.

(9)~~[(8)]~~ Members of the State Textbook Commission~~[, except the trade association member,]~~ shall receive ***one hundred ($100)***~~[fifty ($50)]~~ dollars per day and reimbursement for their actual expenses while attending commission meetings. Textbook reviewers shall receive remuneration based on the amount of textbooks and programs to be reviewed and criteria to be developed as determined by the chief state school officer. Textbook ***reviewers'***~~[reviewers shall be hired through a personal service contract and]~~ remuneration shall not exceed a maximum of ***nine hundred fifty ($950)***~~[seven hundred and fifty ($750)]~~ dollars annually. Textbook reviewers shall also receive reimbursement for actual expenses while attending reviewer~~[or commission]~~ meetings.

~~[(9) The meetings of the State Textbook Commission shall be open to the public and shall be held at least once every quarter and notice of such meeting shall be given in accordance with KRS 424.110 to 424.210.~~

~~(10) Not later than May 1 each year the chief state school officer shall call the State Textbook Commission into session. The members of the State Textbook Commission shall elect one (1) of its voting members as chairman and shall adopt administrative regulations for the procedure of the commission. The chief state school officer shall be the secretary of the commission.]~~

Section 3. KRS 156.407 is amended to read as follows:

(1) The chief state school officer shall, not later than February 1 of each year in which an adoption is to be made, solicit applications for filling twelve (12) positions~~[in each subject area]~~ for textbook reviewers***.***~~[;]~~

(2) Solicitation shall be statewide and include specifications which ensure candidates have professional expertise in the subject areas to be reviewed or are parents of children currently enrolled in public schools in Kentucky***.***~~[;]~~

(3) The ***chief state school officer***~~[State Textbook Commission, at its first yearly meeting,]~~ shall select textbook reviewers based on a list of qualified applicants prepared by the ***Department of Education.***~~[chief state school officer and giving consideration to his recommendations as specified in KRS 156.405;]~~

(4)~~[The contracts for the textbook reviewers shall extend until the review of textbooks for a given year is completed, but no later than October 15.~~

~~(5)]~~ The Department of Education's curriculum and instruction specialists shall serve as staff to the~~[commission and]~~ reviewers. The staff shall:

(a) Orient and train the~~[commission and]~~ reviewers regarding departmental policy and selection procedures;

(b) Make available existing standards and criteria for textbook ***evaluation***~~[selection]~~; and

(c) Provide supplies and sample textbooks for the review process.

(5)~~[(6)]~~ The textbook reviewers shall develop subject specific criteria for textbook review and evaluation in the following textbook areas:

(a) Subject content, including its relationship to the ***academic expectations and core content for assessment***~~[valued outcomes]~~;

(b) Audience;

(c) Format;

(d) Readability; and

(e) Ancillary materials.

(6) On or before ***December***~~[July]~~ 15, the ***Department of Education***~~[State Textbook Commission]~~ shall ***publish and distribute the consumer's guide to textbooks, textbook programs, and instructional materials offered in lieu of basal***

texts to all public schools in the state[~~develop general criteria, review and approve subject specific criteria, and provide the standard criteria and evaluation forms to be used by the commission and textbook reviewers.~~

~~(7) Based upon approval of the standard criteria and evaluation forms, the textbook reviewers shall review textbooks and programs. The committee shall submit evaluation forms rating each textbook or program reviewed in each of the five (5) areas, set forth in subsection (6) of this section, with comments related to strengths and weaknesses in each area.~~

~~(8) The State Textbook Commission shall review the work of the textbook reviewers and based on this review and any of its own reviews of textbooks or programs, select books for the state multiple list of textbooks. Copies of all evaluation forms submitted by the textbook reviewers shall be made available to commission members and maintained on file within the Department of Education for the cycle length of the books. For those textbooks placed on the state multiple list of textbooks, summary results of the evaluations shall be provided to the local school districts~~].

Section 4. KRS 156.410 is amended to read as follows:

(1) The chief state school officer shall prepare minimum manufacturing standards, delineate content specifications, in accordance with the curriculum requirements of the program of studies for Kentucky schools: grades K-12, ***and*** construct[~~, score cards,~~] and formulate other criteria for use in the ***evaluation***[~~selection and adoption~~] of textbooks in Kentucky. Criteria shall require that textbooks include the significance of the diverse ethnic contributors to society.

(2) It shall be the duty of the chief state school officer to prepare all necessary forms for use in the ***evaluation***[~~selection and adoption~~] of textbooks, such as advertising for textbook bids; forms for bids, bonds, and contracts; and other forms.

(3) The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall have authority to prescribe:

(a) Administrative regulations pertaining to all textbook samples for use on the state and local levels; and

(b) Shall have authority to prescribe administrative regulations relating to the agents and representatives of textbooks as to the number participating and the methods and procedures for use in textbook adoptions on the state and local levels.

(4) The chief state school officer, on or before May 1 prior to any adoption year, shall properly advertise the subjects for which textbook adoptions will be made and notify the different publishers of the textbooks. The publishers, on or before July 15, of any adoption year, shall file with the chief state school officer textbook samples, filing fees, textbook bids and bonds, and other specified information relative to the books that they desire to offer for adoption.

(5) The chief state school officer shall:

(a) Review the bid information submitted by the publishers;

(b) Verify that the bid complies with the specifications; and

(c) Prepare a list of textbooks for ***review***[~~consideration by the State Textbook Commission~~] indicating those in compliance with the standards and specifications and those not in compliance, detailing areas of noncompliance.

Section 5. KRS 156.415 is amended to read as follows:

(1) Before textbooks***, programs, and instructional materials offered in lieu of basal texts may be placed upon the state textbook bid list and evaluated for inclusion in the consumer guide:***

(a) The publisher shall submit a bid and sign a contract with the Commonwealth guaranteeing that all provisions of the bid process set forth in KRS 156.415, 156.420, 156.425, and 156.430 shall be followed; and

[~~offered for adoption and use in public schools of Kentucky may be lawfully approved and listed by the State Textbook Commission or purchased by any board of education,~~]

(b) The person, firm, or corporation offering the books for adoption and use shall file with the chief state school officer:

1.[~~(1)~~] Copies of all textbooks that the person, firm, or corporation desires to offer for adoption and use, with a sworn statement of the list price ***and***[~~,~~] the lowest wholesale price[~~, and the lowest exchange price, if required by the State Textbook Commission,~~] at which each of the books is sold in any adopting unit;

2.[~~(2)~~] A statement that all the books offered for sale, adoption, use, and exchange do comply with the standards and specifications for textbooks designated by the chief state school officer as regards paper, binding, printing, illustrations, subject matter, and other items included in the standards and specifications;

3.[~~(3)~~] Copies of any revision or special editions of the textbooks filed, with a statement describing in detail each point of difference from the regular edition filed, and the list price ***and***[~~,~~] the lowest wholesale price[~~, and the lowest exchange price~~] at which the revision or special edition is sold anywhere in the United States;

4.[~~(4)~~] A fee of five dollars ($5) for each book filed except when a series of books is filed, in which case the fee shall be five dollars ($5) for the first book and one dollar ($1) for each additional book in the series. The fee provided by this subsection shall be paid at each and every adoption period; ***and***

5.[~~(5)~~] A bond running to the Commonwealth of Kentucky, executed by a surety company authorized to do business in this state, in a sum not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000), to be determined by the chief state school officer.

(2) Publishers entering into contracts with Kentucky schools for the adoption of textbooks, text programs, and instructional materials offered in lieu of basal texts that are not on the state bid list shall be bound by KRS 156.420(2) and (3).

(3) The Department of Education shall require any publisher of a textbook placed on the state bid list to furnish the American Printing House for the Blind with computer diskettes or tapes of those books either in the American Standard Code for Information Interchange (ASCII), or in any other format that can be readily translated into braille by the American Printing House for the Blind.

Section 6. KRS 156.435 is amended to read as follows:

(1)[~~The State Textbook Commission shall, not later than September 20 of any year in which an adoption is to be made, select, approve, and publish a list of books or programs in each subject and grade, taking into account the needs of the various types of students, indicating the student functioning level for which the textbook or program is appropriate.~~

~~(2) The State Textbook Commission shall have the authority to reject any book which:~~

~~(a) Contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, provided the publisher of the book has been given written notice by the secretary of the commission not less than thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list;~~

~~(b) Is in noncompliance with standards and specifications set forth in KRS 156.410; or~~

~~(c) Is not of high quality in terms of the content provided, the audience addressed, the format used, the readability of material or the ancillary materials provided the teacher and students.~~

~~(3)~~] The ***Department of Education***[~~State Textbook Commission~~] shall have the authority to ***solicit additions for***[~~add books to~~] the state list when the list does not contain books for subjects added to the state ***program***[~~courses~~] of study.

(2)[~~(4)~~] The chief state school officer shall make and execute contracts for the selected books with the publishers on or before ***May***[~~January~~] 1[~~ following the approval of the books selected by the commission~~]. Except as described in KRS 156.400, all contracts shall run for six (6) years.

[~~(5) The chief state school officer shall prepare a multiple list of the selected books or programs and publish the list and send a copy to the superintendents of each county and independent school district in Kentucky on or before October 15 of each adoption year.~~]

Section 7. KRS 156.437 is amended to read as follows:

The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall have the authority to prescribe administrative regulations for the listing by the ***Department of Education***[~~State Textbook Commission~~], adoption by local adoption units, and the purchase of subject programs for the pupils in the public schools.

Section 8. KRS 156.439 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate by administrative regulations the method for calculating and distributing a district's textbook and instructional materials allocation. The district's allocation shall be used by schools to purchase ***textbooks, textbook programs, programs and materials, both print and electronic, appropriate for use in classes from primary through grade twelve (12) in the Kentucky schools***[~~:~~

~~(a) Textbooks from the state adoption list;~~

~~(b) Textbooks not on the state's approved list, if evidence is submitted that the textbook meets the selection criteria of the State Textbook Commission in KRS 156.405(3)(b) and the subject specific criteria of the textbook reviewers pursuant to KRS 156.407(6);~~

~~(c) Instructional materials, with an approved plan pursuant to subsection (2) of this section; or~~

~~(d) Any combination of the above~~].

(2) The district shall identify all purchases made with the textbook and instructional materials allocation and shall keep on file a plan developed by each school, in accordance with administrative regulations promulgated by the Kentucky Board of Education, for providing the necessary textbooks and instructional materials for all grades, and subject areas, including the replacement of books and materials during the six (6) year adoption period. A school may carry forward to the next school year any part of its textbook and instructional materials allocation which has been distributed to the district. If a local board does not approve a school council's plan, the council may appeal to the commissioner and an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 9. KRS 156.440 is amended to read as follows:

(1) Textbook publishers, upon the request of the superintendents of the county and independent school districts, shall furnish

to the local boards of education the requested sample copies of their books that were selected and placed on the state ***bid list***[~~multiple list of textbooks by the State Textbook Commission~~].

(2) Unless otherwise provided by the General Assembly in a budget bill, the board of education of each county and independent school district shall, upon the recommendation of its superintendent and not later than April 15 of any adoption year, select[~~ from the state multiple list~~] books or programs for each subject and grade which may be selected for use as a basal text in its school system for a period of six (6) years, and any extensions thereof.

(3) ***No later than April 20 of the adoption year, the local board of education shall adopt and maintain a list of basal textbooks, programs, and instructional materials used in lieu of basal materials that may be used in the district***[~~After the local board of education has adopted the basal textbooks which may be used in the district, and not later than April 20, the superintendent of schools shall send to the chief state school officer a complete list of books adopted properly certified by the chairman and secretary of the board of education~~].

Section 10. KRS 156.470 is amended to read as follows:

A copy of ***all materials***[~~each textbook~~] listed ***on the state bid list***[~~by the State Textbook Commission~~] shall remain in the office of the chief state school officer as an official sample for the period of the adoption.[~~ After the adoption period such samples shall be sold by the Kentucky Board of Education.~~]

Section 11. KRS 156.472 is amended to read as follows:

All administrative regulations of the Kentucky Board of Education and the statutory laws, which are applicable to textbook[~~ adoptions,~~] purchases[~~,~~] and distribution by the county and independent school districts, shall apply to textbook[~~ adoptions,~~] purchases[~~,~~] and distributions for the state college and university model and practice schools.

Section 12. KRS 157.100 is amended to read as follows:

The ***Commonwealth of Kentucky shall provide funds for textbooks and other instructional materials for distribution***[~~chief state school officer, subject to the approval of the Kentucky Board of Education, shall purchase textbooks from the publishers whose books have been adopted by the State Textbook Commission and may purchase from any publisher other related media not approved by the State Textbook Commission and distribute them~~] without cost to pupils attending ***primary***[~~grades kindergarten~~] through ***grade*** twelve (12) of the public schools of the state, in the manner and upon the conditions set out in KRS 157.110 and 157.180.

Section 13. KRS 157.145 is amended to read as follows:

[~~(1)~~]The chief state school officer shall each year cause textbooks which have not been made obsolete by new adoptions and which[~~, in his discretion,~~] are in need of, and have valid content justifying rebinding, to be rebound ***by entering into a contract with a bindery who will perform services for districts within the Commonwealth of Kentucky at a state contract price***[~~upon request of the local districts.~~

~~(2) When the chief state school officer has received requests for rebinding, he shall prepare necessary forms to be mailed to the bindery under contract with the Commonwealth of Kentucky. Instructions for pick-up and delivery are to be given to the bindery and local district by the chief state school officer.~~

~~(3) Upon receipt of invoices from the bindery, the chief state school officer shall cause departmental purchase order forms to be prepared and mailed to the superintendent. The departmental purchase order form shall be checked against books rebound and returned to the Department of Education authorizing payment of the invoice~~].

Section 14. KRS 157.150 is amended to read as follows:

All textbooks purchased under the provisions of KRS 157.100 are the property of the state. Each superintendent[~~ making requisition for the books~~] is custodian of the books in his district. He shall issue the books to the various schools in his district according to ***administrative***[~~rules and~~] regulations ***of***[~~formulated by the chief state school officer and approved by~~] the Kentucky Board of Education.

Section 15. KRS 157.160 is amended to read as follows:

The[~~ chief state school officer, subject to the approval of the~~] Kentucky Board of Education[~~,~~] shall ***promulgate administrative***[~~make rules and~~] regulations for the disposal of textbooks which will no longer be used for instruction. Each superintendent may make obsolete textbooks available to the residents of his district. He may publicize in the newspaper the availability of the books and the procedure for obtaining them in accordance with this section. Any funds accruing from the sale of the books shall be paid into the local district's account.

Section 16. KRS 157.170 is amended to read as follows:

The[~~ chief state school officer, subject to the approval of the~~] Kentucky Board of Education[~~,~~] shall ***promulgate administrative***[~~make rules and~~] regulations governing the sale of textbooks by superintendents to pupils, parents, or guardians of pupils attending the public schools of the state who desire to hold textbooks as their own property. Superintendents shall not sell textbooks to private or sectarian schools. Books sold under this section shall be sold at the retail contract price. Funds accruing from the sales shall be paid into the local district's account.

Section 17. KRS 156.445 is amended to read as follows:

[~~(1) No textbook shall be used in any public school in Kentucky as a basal textbook unless it has been approved and listed on the state multiple list of textbooks by the State Textbook Commission or unless a school district has applied for and received a waiver of this requirement from the Kentucky Board of Education pursuant to subsection (2) of this section. Any changes of textbooks made by the State Textbook Commission shall not become effective until grades and classes of the respective county and independent school districts have completed work for which the adopted book then in use was originally intended. Nothing in this section shall apply to the supplementary books that are needed from time to time.~~

~~(2) A local school board or school council may apply to the Kentucky Board of Education to adopt a basal textbook which is not on the multiple list by submitting evidence that the textbook it has chosen meets the selection criteria of the State Textbook Commission in KRS 156.405(3)(b) and the subject specific criteria of the textbook reviewers pursuant to KRS 156.407(6).~~

~~(3)~~]In approving text materials for private and parochial schools for the purpose of KRS 156.160(3) such text materials shall be approved if they are comprehensive and appropriate to the grade level in question notwithstanding the fact that they may contain elements of religious philosophy.

Section 18. KRS 157.190 is amended to read as follows:

In accordance with KRS 605.110(3), the Kentucky Department of Education, upon recommendation of the Kentucky Board of Education, shall cooperate with the Kentucky Educational Collaborative for State Agency Children to ensure access to textbooks, textbook programs, and instructional materials for children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Human Resources residential, day treatment, clinical, and group home programs

[~~(1) The chief state school officer, subject to the approval of the Kentucky Board of Education, shall provide basally adopted textbooks without cost to all children between the ages of six (6) and eighteen (18) who are confined in any state correctional institution in this state and who are regularly enrolled in classes of elementary and secondary grades. The textbooks shall be provided upon requisitions made by the person or persons in charge of the correctional institution.~~

~~(2) The chief state school officer may have an investigation made, at any time, to determine the need for the number and kinds of books requisitioned and to determine if the books are being properly maintained. If he finds anything improper about the requisitioning and use of the books, he shall report it to the Kentucky Board of Education.~~

~~(3) The books provided pursuant to this section shall be paid for out of the appropriations for the purchase of free textbooks for pupils attending public schools~~].

Section 19. KRS 158.281 is amended to read as follows:

As used in ***Section 5 of this Act,*** KRS[~~156.476,~~] 158.282, 161.051, and this section:

(1) "Braille" means the system of reading and writing through touch commonly known as Standard English Braille;

(2) "Individualized education program (IEP)" means a written statement developed for an exceptional student eligible for special education services in accordance with administrative regulations promulgated pursuant to KRS 157.200 to 157.290;

(3) "Blind student" means a student between the ages of three (3) and twenty-one (21) for whom an individualized education program is required and who:

  (a) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance of no greater than twenty degrees; or

  (b) Has a medically indicated expectation of visual deterioration which would bring the student within the provisions of subsection (3)(a) of this section; or

  (c) Functions as if he is blind even though the student may not technically meet the visual acuity or medical standards set forth in this subsection.

Section 20. KRS 158.282 is amended to read as follows:

(1) The purpose of ***subsection (2) of Section 5 of this Act,*** KRS[~~156.476,~~] 158.281, 161.051, and this section shall be to assure, to the maximum extent possible, that all blind students shall be instructed in the use of braille.

(2) The written individualized education program for each exceptional student, as promulgated by administrative regulation, shall also include the following assessment for blind students:

  (a) A braille skills inventory, including an assessment of the student's strengths and weaknesses;

  (b) A statement as to whether the use of braille shall be that student's primary mode of communication;

  (c) The date on which braille instruction shall begin;

  (d) The length of the period of instruction, and the frequency and duration of each instructional session; and

  (e) The level of competency in braille reading and writing to be achieved, and the assessment measures to be used in determining if that level has been achieved.

(3) Braille instruction and use shall not be required by this section if, during the course of developing the blind student's individualized educational program, the members of the Administrative Admission and Release Committee as established for this purpose, pursuant to administrative regulations, concur that the student shall not be required to learn to read and write braille. In reaching its decision, the committee shall consider the student's reading readiness, functional reading skills, reading comprehension rate and stamina, functional writing skills, communication skills, eye condition and prognosis, and functional vision and tactile discrimination skills. Upon reaching this determination the committee shall write into the individualized education program of a blind student, the factors and evidence considered by the committee in reaching its decision.

(4) Nothing in this section shall require the exclusive use of instruction in braille if other methods of reading and writing may also be learned by the student.

Section 21. KRS 158.080 is amended to read as follows:

Private and parochial schools shall be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the state, consistent with KRS 156.445[~~(3)~~]. Except in those school districts operating a year-round school program, the term of the school shall not be for a shorter period in each year than the term of the public school provided in the district in which the child attending the school resides. In those school districts which are operating a year-round school program, the minimum term of private and parochial schools shall be one hundred eighty-five (185) days.

Section 22. The following KRS sections are repealed:

156.450 Distribution of books -- Agents.
156.455 Purchase of books from pupil moving from district.
156.474 Multiple textbook adoptions.
156.475 Title.
156.476 Textbooks for children with impaired vision -- Requirement that publisher of adopted textbook furnish American Printing House for the Blind with text in electronic format.
157.120 Requisitions for books -- Shipments -- Invoices.
157.130 Regulations governing textbooks.

The Committee Substitute to **HB 642** is as follows:

AN ACT relating to instructional materials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.400 is amended to read as follows:

(1) The chief state school officer shall arrange the elementary***, middle,*** and secondary school subjects included in the state ***program***[~~courses~~] of study as prescribed by the Kentucky Board of Education into six (6) adoption groups.

(2) Contracts for each of the six (6) adoption groups shall be for a period of six (6) years and shall be executed on a staggered basis, with one (1) group being up for adoption each year. The six (6) adoption groups shall be ***arranged by content similarities when appropriate while being*** arranged as nearly equal in number and purchase cost as possible. Subjects with rapidly changing or highly technical content may be considered more frequently than once during a six (6) year cycle.

(3) The chief state school officer may delay the purchase of books due to insufficient funds, but any purchases of books shall be in accordance with KRS Chapter 156.

Section 2. KRS 156.405 is amended to read as follows:

(1) ***The Kentucky Department of Education shall develop and publish an instrument based upon both general and specific criteria that is suitable for the evaluation of textbooks, programs, and instructional materials offered in lieu of basal texts. The Kentucky Board of Education shall promulgate administrative regulations establishing procedures for:***

(a) The review of materials in terms of suitability, freedom from bias, and adherence to state law; and

(b) The development and publication of a consumer guide to textbooks, programs, and instructional materials offered in lieu of basal texts.

[~~The purpose of the State Textbook Commission is to provide a list of current and high quality textbooks to local school districts, which complement the educational program in Kentucky schools, and to provide for public participation in the adoption process.~~]

(2) ~~[The State Textbook Commission shall consist of the chief state school officer and eleven (11) appointive members. The eleven (11) members shall be appointed by the Kentucky Board of Education upon the recommendation of the chief state school officer for terms of four (4) years with two (2) appointments each year, except that every fourth year there shall be five (5) appointments. No member shall be eligible to serve more than two (2) full terms consecutively. All vacancies that occur on the State Textbook Commission shall be filled in like manner for the remainder of the unexpired terms.]~~The ***Department of Education***~~[State Textbook Commission]~~ shall receive assistance in the textbook ***evaluation***~~[selection]~~ process from professionals and lay citizens who will~~[serve on a contractual basis and]~~ be referred to in this chapter as the "textbook reviewers."

(3) The ***Department of Education***~~[State Textbook Commission]~~ shall:

(a) Select and direct the activities of the textbook reviewers who develop ***the evaluation instrument for the***~~[selection criteria and]~~ review ***and evaluation of*** textbooks***, text***~~[and]~~ programs***, and instructional materials offered in lieu of basal texts and who review the materials for suitability, freedom from bias, and adherence to state law***;

(b) ***Edit and assemble evaluations of text materials into a consumer guide to textbooks, programs and instructional materials appropriate for use as the primary means of instruction in the primary through grade twelve (12) classrooms; and***~~[Develop selection criteria and evaluation forms with the help of the textbook reviewers to be used in the state level selection process]~~;

(c) ***Publish and distribute the consumer's guide to Kentucky public schools***~~[Approve the evaluative criteria and forms used by the commission and textbook reviewers;~~

~~(d) Review the textbook reviewers' evaluations, and textbooks or programs as it deems necessary, in order to select from them a list of high quality books;~~

~~(e) Select, approve, and publish a list of high quality textbooks]~~.

(4) ***It shall be the responsibility of the State Textbook Commission to consider requests to amend the proposed state textbook bid list. The commission shall conduct an annual open meeting, after the textbook review is completed and before the state textbook bid list has been established, to receive and consider concerns of any individual or organization regarding the inclusion or exclusion of textbooks, text programs, or instructional materials offered in lieu of basal texts. The commission shall add or remove textbooks or instructional materials from the proposed state textbook bid list, based upon evidence and arguments presented concerning the textbook or instructional material's suitability, presence or absence of bias, and adherence to state law. When the commission has acted, the amended list shall become the official state textbook bid list.***

(5) The State Textbook Commission shall consist of eleven (11) members appointed by the Kentucky Board of Education upon the recommendation of the chief state school officer for terms of four (4) years. All persons appointed prior to the effective date of this Act shall serve until the expiration of their term. Subsequent appointments shall be filled in accordance with criteria established in this section, with the initial two (2) appointments made in 1999, and three (3) appointments each year, except that every fourth year there shall be two (2) appointments. No member shall be eligible to serve more than two (2) full terms consecutively. All vacancies on the commission shall be filled in a like manner for the remainder of the unexpired term.

(6) The textbook reviewers shall be comprised of twelve (12) individuals for the area or areas being considered for adoption. The textbook reviewers shall be approved by the ***chief state school officer***~~[State Textbook Commission]~~ based on the recommendation of the ***Department of Education***~~[chief state school officer]~~.

~~[(5) The textbook reviewers shall:~~

~~(a) Develop and submit to the commission subject specific evaluative criteria to be used in reviewing textbooks;~~

~~(b) Review textbooks and programs to determine those of high quality, using evaluative criteria and forms approved by the commission;~~

~~(c) Submit to the commission reviews and evaluative forms regarding reviewed textbooks and programs; and,~~

~~(d) Attend meetings and training sessions as requested by the commission and the Department of Education.~~]

(7)~~[(6)]~~ ***Seven (7)***~~[Eight (8)]~~ of the appointive members of the State Textbook Commission shall have had not less than five (5) years' teaching or supervising experience in the public schools of Kentucky and must have had at the time of their appointment at least four (4) years of college training in a recognized institution of higher education. Five (5) ***of these seven (7)*** members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books. Two (2) ***of these seven (7)*** members shall be principals, supervisors, or superintendents of public schools or public school systems. One (1) member shall be a member of the faculty of a public institution of higher education engaged in teacher ***preparation***~~[education]~~. One (1) member shall be ***a member of a school-based decision making council at a Kentucky public school***~~[the executive director of the Kentucky Educational Publishers Association or any other legitimate trade association of~~

~~textbook publishers recognized by the Kentucky Board of Education, but shall not represent any particular publisher. This member shall have no vote but may otherwise participate in the business of the commission~~]. Two (2) members shall be lay citizens. In recommending the members of the State Textbook Commission the chief state school officer shall give due regard to representation from rural and urban areas and both elementary and secondary levels when both educational levels are included in the subject field or fields for which adoptions are to be made. The lay citizens shall have children in the public elementary or secondary schools at the time of appointment.

(8)[~~(7)~~] Textbook reviewers shall have the following qualifications: Six (6) of the textbook reviewers shall be instructional supervisors and classroom teachers in various and appropriate grade levels primary through grade twelve (12), with experience and training in the subject areas to be reviewed. One (1) reviewer shall have expertise and training in learning theory as applied to the classroom situation. One (1) reviewer shall be a current or former university faculty member with expertise in the content area of the textbooks to be reviewed. One (1) reviewer shall have experience and training in readability and formatting of textbooks. Three (3) reviewers shall be parents of children currently enrolled in public schools in Kentucky.

(9)[~~(8)~~] Members of the State Textbook Commission[~~, except the trade association member,~~] shall receive ***one hundred ($100)***[~~fifty ($50)~~] dollars per day and reimbursement for their actual expenses while attending commission meetings. Textbook reviewers shall receive remuneration based on the amount of textbooks and programs to be reviewed and criteria to be developed as determined by the chief state school officer. Textbook ***reviewers'***[~~reviewers shall be hired through a personal service contract and~~] remuneration shall not exceed a maximum of ***nine hundred fifty ($950)***[~~seven hundred and fifty ($750)~~] dollars annually. Textbook reviewers shall also receive reimbursement for actual expenses while attending reviewer[~~ or commission~~] meetings.

[~~(9) The meetings of the State Textbook Commission shall be open to the public and shall be held at least once every quarter and notice of such meeting shall be given in accordance with KRS 424.110 to 424.210.~~

~~(10) Not later than May 1 each year the chief state school officer shall call the State Textbook Commission into session. The members of the State Textbook Commission shall elect one (1) of its voting members as chairman and shall adopt administrative regulations for the procedure of the commission. The chief state school officer shall be the secretary of the commission.~~]

Section 3. KRS 156.407 is amended to read as follows:

(1) The chief state school officer shall, not later than February 1 of each year in which an adoption is to be made, solicit applications for filling twelve (12) positions[~~ in each subject area~~] for textbook reviewers***.***[~~;~~]

(2) Solicitation shall be statewide and include specifications which ensure candidates have professional expertise in the subject areas to be reviewed or are parents of children currently enrolled in public schools in Kentucky***.***[~~;~~]

(3) The ***chief state school officer***[~~State Textbook Commission, at its first yearly meeting,~~] shall select textbook reviewers based on a list of qualified applicants prepared by the ***Department of Education.***[~~chief state school officer and giving consideration to his recommendations as specified in KRS 156.405;~~]

(4)[~~ The contracts for the textbook reviewers shall extend until the review of textbooks for a given year is completed, but no later than October 15.~~

~~(5)~~] The Department of Education's curriculum and instruction specialists shall serve as staff to the[~~ commission and~~] reviewers. The staff shall:

(a) Orient and train the commission and reviewers regarding departmental policy and selection procedures;

(b) Make available existing standards and criteria for textbook ***evaluation***[~~selection~~]; and

(c) Provide supplies and sample textbooks for the review process.

(5)[~~(6)~~] The textbook reviewers shall develop subject specific criteria for textbook review and evaluation in the following textbook areas:

(a) Subject content, including its relationship to the ***academic expectations and core content for assessment***[~~valued outcomes~~];

(b) Audience;

(c) Format;

(d) Readability; and

(e) Ancillary materials.

(6) On or before ***December***[~~ July~~] 15, the ***Department of Education***[~~State Textbook Commission~~] shall ***publish and distribute the consumer's guide to textbooks, textbook programs, and instructional materials offered in lieu of basal texts to all public schools in the state***[~~develop general criteria, review and approve subject specific criteria, and provide the standard criteria and evaluation forms to be used by the commission and textbook reviewers.~~

~~(7) Based upon approval of the standard criteria and evaluation forms, the textbook reviewers shall review textbooks and~~

~~programs. The committee shall submit evaluation forms rating each textbook or program reviewed in each of the five (5) areas, set forth in subsection (6) of this section, with comments related to strengths and weaknesses in each area.~~

~~(8) The State Textbook Commission shall review the work of the textbook reviewers and based on this review and any of its own reviews of textbooks or programs, select books for the state multiple list of textbooks. Copies of all evaluation forms submitted by the textbook reviewers shall be made available to commission members and maintained on file within the Department of Education for the cycle length of the books. For those textbooks placed on the state multiple list of textbooks, summary results of the evaluations shall be provided to the local school districts~~].

Section 4. KRS 156.410 is amended to read as follows:

(1) The chief state school officer shall prepare minimum manufacturing standards, delineate content specifications, in accordance with the curriculum requirements of the program of studies for Kentucky schools: grades K-12, ***and*** construct[~~ score cards,~~] and formulate other criteria for use in the ***evaluation***[~~selection and adoption~~] of textbooks in Kentucky. Criteria shall require that textbooks include the significance of the diverse ethnic contributors to society.

(2) It shall be the duty of the chief state school officer to prepare all necessary forms for use in the ***evaluation***[~~selection and adoption~~] of textbooks, such as advertising for textbook bids; forms for bids, bonds, and contracts; and other forms.

(3) The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall have authority to prescribe:

(a) Administrative regulations pertaining to all textbook samples for use on the state and local levels; and

(b) Shall have authority to prescribe administrative regulations relating to the agents and representatives of textbooks as to the number participating and the methods and procedures for use in textbook adoptions on the state and local levels.

(4) The chief state school officer, on or before May 1 prior to any adoption year, shall properly advertise the subjects for which textbook adoptions will be made and notify the different publishers of the textbooks. The publishers, on or before July 15, of any adoption year, shall file with the chief state school officer textbook samples, filing fees, textbook bids and bonds, and other specified information relative to the books that they desire to offer for adoption.

(5) The chief state school officer shall:

(a) Review the bid information submitted by the publishers;

(b) Verify that the bid complies with the specifications; and

(c) Prepare a list of textbooks for ***review***[~~consideration by the State Textbook Commission~~] indicating those in compliance with the standards and specifications and those not in compliance, detailing areas of noncompliance.

Section 5. KRS 156.415 is amended to read as follows:

(1) Before textbooks***, programs, and instructional materials offered in lieu of basal texts may be placed upon the state textbook bid list and evaluated for inclusion in the consumer guide:***

(a) The publisher shall submit a bid and sign a contract with the Commonwealth guaranteeing that all provisions of the bid process set forth in KRS 156.415, 156.420, 156.425, and 156.430 shall be followed; and

[~~offered for adoption and use in public schools of Kentucky may be lawfully approved and listed by the State Textbook Commission or purchased by any board of education,~~]

(b) The person, firm, or corporation offering the books for adoption and use shall file with the chief state school officer:

1.[~~(1)~~] Copies of all textbooks that the person, firm, or corporation desires to offer for adoption and use, with a sworn statement of the list price ***and***[~~,~~] the lowest wholesale price[~~, and the lowest exchange price, if required by the State Textbook Commission,~~] at which each of the books is sold in any adopting unit;

2.[~~(2)~~] A statement that all the books offered for sale, adoption, use, and exchange do comply with the standards and specifications for textbooks designated by the chief state school officer as regards paper, binding, printing, illustrations, subject matter, and other items included in the standards and specifications;

3.[~~(3)~~] Copies of any revision or special editions of the textbooks filed, with a statement describing in detail each point of difference from the regular edition filed, and the list price ***and***[~~,~~] the lowest wholesale price[~~, and the lowest exchange price~~] at which the revision or special edition is sold anywhere in the United States;

4.[~~(4)~~] A fee of five dollars ($5) for each book filed except when a series of books is filed, in which case the fee shall be five dollars ($5) for the first book and one dollar ($1) for each additional book in the series. The fee provided by this subsection shall be paid at each and every adoption period; ***and***

5.[~~(5)~~] A bond running to the Commonwealth of Kentucky, executed by a surety company authorized to do business in this state, in a sum not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000), to be determined by the chief state school officer.

(2) Publishers entering into contracts with Kentucky schools for the adoption of textbooks, text programs, and instructional materials offered in lieu of basal texts that are not on the state bid list shall be bound by KRS 156.420(2) and (3).

(3) The Department of Education shall require any publisher of a textbook placed on the state bid list to furnish the American Printing House for the Blind with computer diskettes or tapes of those books either in the American Standard Code for Information Interchange (ASCII), or in any other format that can be readily translated into braille by the American Printing House for the Blind.

Section 6. KRS 156.435 is amended to read as follows:

(1)[~~ The State Textbook Commission shall, not later than September 20 of any year in which an adoption is to be made, select, approve, and publish a list of books or programs in each subject and grade, taking into account the needs of the various types of students, indicating the student functioning level for which the textbook or program is appropriate.~~

~~(2) The State Textbook Commission shall have the authority to reject any book which:~~

~~(a) Contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, provided the publisher of the book has been given written notice by the secretary of the commission not less than thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list;~~

~~(b) Is in noncompliance with standards and specifications set forth in KRS 156.410; or~~

~~(c) Is not of high quality in terms of the content provided, the audience addressed, the format used, the readability of material or the ancillary materials provided the teacher and students.~~

~~(3)~~] The ***Department of Education***[~~State Textbook Commission~~] shall have the authority to ***solicit additions for***[~~add books to~~] the state list when the list does not contain books for subjects added to the state ***program***[~~courses~~] of study.

(2)[~~(4)~~] The chief state school officer shall make and execute contracts for the selected books with the publishers on or before ***May***[~~January~~] 1[~~ following the approval of the books selected by the commission~~]. Except as described in KRS 156.400, all contracts shall run for six (6) years.

[~~(5) The chief state school officer shall prepare a multiple list of the selected books or programs and publish the list and send a copy to the superintendents of each county and independent school district in Kentucky on or before October 15 of each adoption year.~~]

Section 7. KRS 156.437 is amended to read as follows:

The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall have the authority to prescribe administrative regulations for the listing by the ***Department of Education***[~~State Textbook Commission~~], adoption by local adoption units, and the purchase of subject programs for the pupils in the public schools.

Section 8. KRS 156.439 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate by administrative regulations the method for calculating and distributing a district's textbook and instructional materials allocation. The district's allocation shall be used by schools to purchase ***textbooks, textbook programs, programs and materials, both print and electronic, appropriate for use in classes from primary through grade twelve (12) in the Kentucky schools***[~~:~~

~~(a) Textbooks from the state adoption list;~~

~~(b) Textbooks not on the state's approved list, if evidence is submitted that the textbook meets the selection criteria of the State Textbook Commission in KRS 156.405(3)(b) and the subject specific criteria of the textbook reviewers pursuant to KRS 156.407(6);~~

~~(c) Instructional materials, with an approved plan pursuant to subsection (2) of this section; or~~

~~(d) Any combination of the above~~].

(2) The district shall identify all purchases made with the textbook and instructional materials allocation and shall keep on file a plan developed by each school, in accordance with administrative regulations promulgated by the Kentucky Board of Education, for providing the necessary textbooks and instructional materials for all grades, and subject areas, including the replacement of books and materials during the six (6) year adoption period. A school may carry forward to the next school year any part of its textbook and instructional materials allocation which has been distributed to the district. If a local board does not approve a school council's plan, the council may appeal to the commissioner and an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 9. KRS 156.440 is amended to read as follows:

(1) Textbook publishers, upon the request of the superintendents of the county and independent school districts, shall furnish to the local boards of education the requested sample copies of their books that were selected and placed on the state ***bid list***[~~multiple list of textbooks by the State Textbook Commission~~].

(2) Unless otherwise provided by the General Assembly in a budget bill, the board of education of each county and

independent school district shall, upon the recommendation of its superintendent and not later than April 15 of any adoption year, select[~~ from the state multiple list~~] books or programs for each subject and grade which may be selected for use as a basal text in its school system for a period of six (6) years, and any extensions thereof.

(3) ***No later than April 20 of the adoption year, the local board of education shall adopt and maintain a list of basal textbooks, programs, and instructional materials used in lieu of basal materials that may be used in the district***[~~After the local board of education has adopted the basal textbooks which may be used in the district, and not later than April 20, the superintendent of schools shall send to the chief state school officer a complete list of books adopted properly certified by the chairman and secretary of the board of education~~].

Section 10. KRS 156.470 is amended to read as follows:

A copy of ***all materials***[~~each textbook~~] listed ***on the state bid list***[~~by the State Textbook Commission~~] shall remain in the office of the chief state school officer as an official sample for the period of the adoption.[~~ After the adoption period such samples shall be sold by the Kentucky Board of Education.~~]

Section 11. KRS 156.472 is amended to read as follows:

All administrative regulations of the Kentucky Board of Education and the statutory laws, which are applicable to textbook[~~ adoptions,~~] purchases[~~,~~] and distribution by the county and independent school districts, shall apply to textbook[~~ adoptions,~~] purchases[~~,~~] and distributions for the state college and university model and practice schools.

Section 12. KRS 157.100 is amended to read as follows:

The ***Commonwealth of Kentucky shall provide funds for textbooks and other instructional materials for distribution***[~~chief state school officer, subject to the approval of the Kentucky Board of Education, shall purchase textbooks from the publishers whose books have been adopted by the State Textbook Commission and may purchase from any publisher other related media not approved by the State Textbook Commission and distribute them~~] without cost to pupils attending ***primary***[~~grades kindergarten~~] through ***grade*** twelve (12) of the public schools of the state, in the manner and upon the conditions set out in KRS 157.110 and 157.180.

Section 13. KRS 157.145 is amended to read as follows:

[~~(1)~~]The chief state school officer shall each year cause textbooks which have not been made obsolete by new adoptions and which[~~, in his discretion,~~] are in need of, and have valid content justifying rebinding, to be rebound ***by entering into a contract with a bindery who will perform services for districts within the Commonwealth of Kentucky at a state contract price***[~~upon request of the local districts.~~

~~(2) When the chief state school officer has received requests for rebinding, he shall prepare necessary forms to be mailed to the bindery under contract with the Commonwealth of Kentucky. Instructions for pick up and delivery are to be given to the bindery and local district by the chief state school officer.~~

~~(3) Upon receipt of invoices from the bindery, the chief state school officer shall cause departmental purchase order forms to be prepared and mailed to the superintendent. The departmental purchase order form shall be checked against books rebound and returned to the Department of Education authorizing payment of the invoice~~].

Section 14. KRS 157.150 is amended to read as follows:

All textbooks purchased under the provisions of KRS 157.100 are the property of the state. Each superintendent[~~ making requisition for the books~~] is custodian of the books in his district. He shall issue the books to the various schools in his district according to ***administrative***[~~rules and~~] regulations ***of***[~~formulated by the chief state school officer and approved by~~] the Kentucky Board of Education.

Section 15. KRS 157.160 is amended to read as follows:

The[~~ chief state school officer, subject to the approval of the~~] Kentucky Board of Education[~~,~~] shall ***promulgate administrative***[~~make rules and~~] regulations for the disposal of textbooks which will no longer be used for instruction. Each superintendent may make obsolete textbooks available to the residents of his district. He may publicize in the newspaper the availability of the books and the procedure for obtaining them in accordance with this section. Any funds accruing from the sale of the books shall be paid into the local district's account.

Section 16. KRS 157.170 is amended to read as follows:

The[~~ chief state school officer, subject to the approval of the~~] Kentucky Board of Education[~~,~~] shall ***promulgate administrative***[~~make rules and~~] regulations governing the sale of textbooks by superintendents to pupils, parents, or guardians of pupils attending the public schools of the state who desire to hold textbooks as their own property. Superintendents shall not sell textbooks to private or sectarian schools. Books sold under this section shall be sold at the retail contract price. Funds accruing from the sales shall be paid into the local district's account.

Section 17. KRS 156.445 is amended to read as follows:

[~~(1) No textbook shall be used in any public school in Kentucky as a basal textbook unless it has been approved and listed on the state multiple list of textbooks by the State Textbook Commission or unless a school district has applied for and received a waiver of this requirement from the Kentucky Board of Education pursuant to subsection (2) of this section.~~

~~Any changes of textbooks made by the State Textbook Commission shall not become effective until grades and classes of the respective county and independent school districts have completed work for which the adopted book then in use was originally intended. Nothing in this section shall apply to the supplementary books that are needed from time to time.~~

~~(2) A local school board or school council may apply to the Kentucky Board of Education to adopt a basal textbook which is not on the multiple list by submitting evidence that the textbook it has chosen meets the selection criteria of the State Textbook Commission in KRS 156.405(3)(b) and the subject specific criteria of the textbook reviewers pursuant to KRS 156.407(6).~~

~~(3)~~]In approving text materials for private and parochial schools for the purpose of KRS 156.160(3) such text materials shall be approved if they are comprehensive and appropriate to the grade level in question notwithstanding the fact that they may contain elements of religious philosophy.

Section 18. KRS 157.190 is amended to read as follows:

In accordance with KRS 605.110(3), the Kentucky Department of Education, upon recommendation of the Kentucky Board of Education, shall cooperate with the Kentucky Educational Collaborative for State Agency Children to ensure access to textbooks, textbook programs, and instructional materials for children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Human Resources residential, day treatment, clinical, and group home programs

[~~(1) The chief state school officer, subject to the approval of the Kentucky Board of Education, shall provide basally adopted textbooks without cost to all children between the ages of six (6) and eighteen (18) who are confined in any state correctional institution in this state and who are regularly enrolled in classes of elementary and secondary grades. The textbooks shall be provided upon requisitions made by the person or persons in charge of the correctional institution.~~

~~(2) The chief state school officer may have an investigation made, at any time, to determine the need for the number and kinds of books requisitioned and to determine if the books are being properly maintained. If he finds anything improper about the requisitioning and use of the books, he shall report it to the Kentucky Board of Education.~~

~~(3) The books provided pursuant to this section shall be paid for out of the appropriations for the purchase of free textbooks for pupils attending public schools~~].

Section 19. KRS 158.281 is amended to read as follows:

As used in ***Section 5 of this Act,*** KRS[~~ 156.476,~~] 158.282, 161.051, and this section:

(1) "Braille" means the system of reading and writing through touch commonly known as Standard English Braille;

(2) "Individualized education program (IEP)" means a written statement developed for an exceptional student eligible for special education services in accordance with administrative regulations promulgated pursuant to KRS 157.200 to 157.290;

(3) "Blind student" means a student between the ages of three (3) and twenty-one (21) for whom an individualized education program is required and who:

 (a) Has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance of no greater than twenty degrees; or

 (b) Has a medically indicated expectation of visual deterioration which would bring the student within the provisions of subsection (3)(a) of this section; or

 (c) Functions as if he is blind even though the student may not technically meet the visual acuity or medical standards set forth in this subsection.

Section 20. KRS 158.282 is amended to read as follows:

(1) The purpose of ***subsection (2) of Section 5 of this Act,*** KRS[~~ 156.476,~~] 158.281, 161.051, and this section shall be to assure, to the maximum extent possible, that all blind students shall be instructed in the use of braille.

(2) The written individualized education program for each exceptional student, as promulgated by administrative regulation, shall also include the following assessment for blind students:

 (a) A braille skills inventory, including an assessment of the student's strengths and weaknesses;

 (b) A statement as to whether the use of braille shall be that student's primary mode of communication;

 (c) The date on which braille instruction shall begin;

 (d) The length of the period of instruction, and the frequency and duration of each instructional session; and

 (e) The level of competency in braille reading and writing to be achieved, and the assessment measures to be used in determining if that level has been achieved.

(3) Braille instruction and use shall not be required by this section if, during the course of developing the blind student's individualized educational program, the members of the Administrative Admission and Release Committee as established for this purpose, pursuant to administrative regulations, concur that the student shall not be required to learn

to read and write braille. In reaching its decision, the committee shall consider the student's reading readiness, functional reading skills, reading comprehension rate and stamina, functional writing skills, communication skills, eye condition and prognosis, and functional vision and tactile discrimination skills. Upon reaching this determination the committee shall write into the individualized education program of a blind student, the factors and evidence considered by the committee in reaching its decision.

(4) Nothing in this section shall require the exclusive use of instruction in braille if other methods of reading and writing may also be learned by the student.

Section 21. KRS 158.080 is amended to read as follows:

Private and parochial schools shall be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the state, consistent with KRS 156.445[~~(3)~~]. Except in those school districts operating a year-round school program, the term of the school shall not be for a shorter period in each year than the term of the public school provided in the district in which the child attending the school resides. In those school districts which are operating a year-round school program, the minimum term of private and parochial schools shall be one hundred eighty-five (185) days.

Section 22. The following KRS sections are repealed:

156.450 Distribution of books -- Agents.

156.455 Purchase of books from pupil moving from district.

156.474 Multiple textbook adoptions.

156.475 Title.

156.476 Textbooks for children with impaired vision -- Requirement that publisher of adopted textbook furnish American Printing House for the Blind with text in electronic format.

157.120 Requisitions for books -- Shipments -- Invoices.

157.130 Regulations governing textbooks.

HCR 7, A CONCURRENT RESOLUTION confirming the appointment of LaVerne M. Waldrop to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, pursuant to KRS 164.005, the Governor has appointed LaVerne M. Waldrop as a member of the Governor's Postsecondary Education Nominating Committee for a term expiring April 14, 2002; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, the Governor has submitted LaVerne M. Waldrop's name for confirmation as a member of the committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that LaVerne M. Waldrop meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and Senate hereby confirm the appointment of LaVerne M. Waldrop to the Governor's Postsecondary Education Nominating Committee for a term ending April 14, 2002.

Section 2. That the Clerk of the House of Representatives, pursuant to KRS 11.160(2) shall notify Governor Paul E. Patton, Room 100, State Capitol and LaVerne M. Waldrop, 610 Pryor Street, Mayfield, Kentucky 42066, in writing, of the General Assembly's action.

HCR 11, A CONCURRENT RESOLUTION confirming the appointment of Jennifer Jones to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, pursuant to KRS 164.005, the Governor has appointed Jennifer Jones as a member of the Governor's Postsecondary Education Nominating Committee for a term expiring April 14, 1998; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, the Governor has submitted Jennifer Jones' name for confirmation as a member of the committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Jennifer Jones meets the requirements established in

KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and Senate hereby confirm the appointment of Jennifer Jones to the Governor's Postsecondary Education Nominating Committee for a term ending April 14, 1998.

Section 2. That the Clerk of the House of Representatives, pursuant to KRS 11.160(2) shall notify Governor Paul E. Patton, Room 100, State Capitol and Jennifer Jones, 145 Horseshoe Drive, Pineville, Kentucky 40977, in writing, of the General Assembly's action.

HCR 15, A CONCURRENT RESOLUTION confirming the appointment of Morton J. Holbrook, Jr., to the Higher Education Nominating Committee.

WHEREAS, pursuant to KRS 164.005, the Governor has appointed Morton J. Holbrook, Jr., as a member of the Higher Education Nominating Committee for a term expiring April 14, 2002; and

WHEREAS, appointments to the Higher Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of April 30, 1996, the Governor has delivered the name of Morton J. Holbrook, Jr., for confirmation as a member of the committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Morton J. Holbrook, Jr., meets the requirements established in KRS 164.005 for membership on the Higher Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and Senate hereby confirm the appointment of Morton J. Holbrook, Jr., to the Higher Education Nominating Committee for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Morton J. Holbrook, Jr., 26 Stone Creek Road, Owensboro, Kentucky 42303, in writing, of the General Assembly's action.

The Committee Substitute to **HCR 15** is as follows:

A CONCURRENT RESOLUTION confirming the appointment of Morton J. Holbrook, Jr., to the Higher Education Nominating Committee.

WHEREAS, pursuant to KRS 164.005, the Governor has appointed Morton J. Holbrook, Jr., as a member of the Governor's Postsecondary Education Nominating Committee for a term expiring April 14, 2002; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of April 30, 1996, the Governor has delivered the name of Morton J. Holbrook, Jr., for confirmation as a member of the committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Morton J. Holbrook, Jr., meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and Senate hereby confirm the appointment of Morton J. Holbrook, Jr., to the Governor's Postsecondary Education Nominating Committee for a term ending April 14, 2002.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Morton J. Holbrook, Jr., 26 Stone Creek Road, Owensboro, Kentucky 42303, in writing, of the General Assembly's action.

The Committee Amendment No. 1 Title to **HCR 15** is as follows:

By amending the title to read as follows:

"A CONCURRENT RESOLUTION confirming the appointment of Morton J. Holbrook, Jr., to the Governor's Postsecondary Education Nominating Committee."

HCR 16, A CONCURRENT RESOLUTION confirming the appointment of Alcie Ann Combs to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Alcie Ann Combs as an at-large member of the Kentucky Board of Education for a term expiring April 14, 2000; and

WHEREAS, at-large appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of May 13, 1996, the Governor has delivered Alcie Ann Combs's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Alcie Ann Combs meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Alcie Ann Combs to the Kentucky Board of Education for a term ending April 14, 2000.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Alcie Ann Combs, 102 Hickory Knoll, Quail Ridge, Pikeville, Kentucky 41501, in writing, of the General Assembly's action.

HCR 17, A CONCURRENT RESOLUTION confirming the appointment of Martha Dell Sanders to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Martha Dell Sanders as an at-large member of the Kentucky Board of Education for a term expiring April 14, 2000; and

WHEREAS, by letter of May 13, 1996, the Governor has delivered Martha Dell Sanders' name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Martha Dell Sanders meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Martha Dell Sanders to the Kentucky Board of Education for a term ending April 14, 2000.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol, and Martha Dell Sanders, 142 Locust Hill Drive, Frankfort, Kentucky 40601-4824, in writing, of the General Assembly's action.

HCR 18, A CONCURRENT RESOLUTION confirming the appointment of Dr. Samuel Robinson to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Dr. Samuel Robinson as an at-large member of the Kentucky Board of Education for a term expiring April 14, 2000; and

WHEREAS, at-large appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of May 13, 1996, the Governor has delivered Dr. Samuel Robinson's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Dr. Samuel Robinson meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Dr. Samuel Robinson to the Kentucky Board of Education for a term ending April 14, 2000.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Paul E. Patton, Room 100, State Capitol and Dr. Samuel Robinson, 5503 Apache Road, Louisville, Kentucky 40207, in writing, of the General Assembly's action.

HCR 20, A CONCURRENT RESOLUTION confirming the appointment of Jeffrey C. Mando to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed Jeffrey C. Mando as an at-large member of the Kentucky Board of Education for a term expiring April 14, 2000; and

WHEREAS, at-large appointments to the Kentucky Board of Education are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of May 13, 1996, the Governor has delivered Jeffrey C. Mando's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Jeffrey C. Mando meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Jeffrey C. Mando to the Kentucky Board of Education for a term ending April 14, 2000.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2) shall notify Governor Paul E. Patton, Room 100, State Capitol and Jeffrey C. Mando, 2015 River Vista Court, Villa Hills, Kentucky 41017, in writing, of the General Assembly's action.

Calendar

HB 612, HJR 95, SCR 88, HB 289, HB 588, HB 675, HB 626, HB 699, HB 709, HB 769, HB 774, and **HB 776** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 319** and **HJR 35** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 460, HB 682, HB 703, HB 529, HB 550, HB 552, HB 674, HB 689, HB 692, HB 716, HB 736, HB 740, HB 741, HB 753, HB 754, HB 775, HB 854, HJR 98, HB 289, HB 626, HB 699, HB 769, HB 774, HB 776, HJR 95, SCR 88, HJR 35,** and **HB 319** have been posted for passage in the Orders of the Day for March 10, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 714, HB 791**

Floor Amendments (Continued)

Floor Amendment No. 2 to **HB 535**, by Representative Damron:

On page 5, line 4, after "***council.***", by adding the following:

"***No parent who serves on the school council shall be eligible for employment in the school for one (1) calendar year following the expiration of the parent's term of office.***"

Floor Amendment No. 3 to **HB 535**, by Representative Damron:

On page 3, line 14, after "***selection***", by adding the following:

"***The composition of each committee shall include at least the same proportion of parents serving on the school's council.***"

Floor Amendment No. 1 to the Committee Substitute to **HB 489**, by Representative Miller:

On page 1, after line 15, by inserting:

"Section 2. Whereas an extreme psychological threat is posed to any child ordered to visit with a convicted murderer, when it is not in the child's best interest to visit with the convicted murderer, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Section 3. This Act may be cited as the Roxie Denkhoff Act."

Floor Amendment No. 2 Title to **HB 489**, by Representative Miller:

By amending the title to read as follows: AN ACT relating to visitation rights and declaring an emergency.

Floor Amendment No. 3 to the Committee Substitute to **HB 489**, by Representative Miller:

On page 1, after line 15, by inserting:

"Section 2. This Act may be cited as the Roxie Denkhoff Act."

Floor Amendment No. 1 to **HB 495**, by Representative Gooch:

On page 1, line 2, after the word and comma "highways," delete the words "***the fiscal court***" and remove the opening bracket and strikethroughs from the word "and"; and

On page 1, line 3, remove the strikethroughs and closing bracket from the words "county judges/executive" and after the comma "," delete "***and the city government in***"; and

On page 1, line 4, delete "***respect to municipal highways,***"; and

On page 1, line 9, after the word "department" delete the comma "***,***" and insert the word "***or***" and after the words "***fiscal court***" delete "***, or city government***"; and

On page 1, line 11, after the word "highways" delete the comma "***,***" and remove the brackets and strikethroughs from the word "or" and after the words "county roads" delete "***, or***"; and

On page 1, line 12, delete "***municipal highways***"; and

On page 2, lines 3 through 7, by deleting lines 3 through 7 in their entirety and inserting in lieu thereof the following:

"***(4) A fiscal court shall require all persons applying for a permit issued under Section 2 of this Act to enter into a cooperative agreement with the fiscal court. The cooperative agreement shall provide for an equitable apportionment of the incremental costs for design, maintenance, construction, or reconstruction of those roads and bridges on which the person will be operating under the permit issued under Section 2 of this Act. A fiscal court may require as part of a cooperative agreement for the person to give the fiscal court a bond to ensure payment of the equitable costs associated with the permit issued under Section 2 of this Act. All funds collected under this subsection shall be expended on those roads covered by the cooperative agreement.***

(5) A fiscal court shall not be relieved of expending its normal routine maintenance on all roads covered by cooperative agreements under the provisions of this section.

(6) A person who entered a cooperative agreement with a fiscal court under the provisions of subsection (4) of this section may terminate the agreement by submitting written notice to the fiscal court. If a person terminates a

cooperative agreement with a fiscal court, the permit issued under Section 2 of this Act shall immediately be revoked by the fiscal court."; and

On page 2, line 14, after the word "***a***" delete the words "***local government***" and insert in lieu thereof "***fiscal court***"; and

On page 2, line 19, after the words "***of the***" delete "***local government-***" and insert "***fiscal court-***"; and

On page 2, line 22, after the words "***as the***" delete "***local government***" and insert "***fiscal court***"; and

On page 2, line 23, after the word "***The***" delete "***local government***" and insert "***fiscal court***"; and

On page 2, line 24, after the words "***by the***" delete "***local government***" and insert "***fiscal court***"; and

On page 2, line 24, after the word "***and***" insert "***enter into a cooperative agreement under the provisions of Section 1 of this Act.***"; and

On page 2, lines 25 and 26, by deleting lines 25 and 26 in their entirety; and

On page 2, line 27, delete "***operation of any motor vehicle under the authorization of this permit.***"; and

On page 3, line 4, after the word "***The***" delete "***local government***" and insert "***fiscal court***"; and

On page 3, line 7, after the word "***The***" delete "***local government***" and insert "***fiscal court***"; and

On page 3, line 11, after the words "***by the***" delete "***local government***" and insert "***fiscal court***"; and

On page 3, line 12, after the word "***A***" delete "***local government***" and insert "***fiscal court***".

Floor Amendment No. 2 Title to **HB 495**, by Representative Gooch:

On page 1 by amending the title to read as follows:

"AN ACT relating to fiscal courts regulating traffic on county roads.".

Representative Hatcher moved that the rules be suspended to act upon a Resolution and to grant floor privileges to special guests. Agreed.

Representative Hatcher moved the adoption of the following **HR 128**:

There being no objection **HR 128** was adopted.

HR 128, A RESOLUTION adjourning the House in honor of the West Louisville Boys Choir.

WHEREAS, the West Louisville Boys Choir was founded in 1993 by McDaniel Bluitt; and

WHEREAS, the West Louisville Boys Choirs provides young boys between the ages of nine to eighteen the opportunity to use their talents in a well-structured, spiritual, and healthy environment; and

WHEREAS, the West Louisville Boys Choir is meant to provide boys with a proper foundation for their continued involvement in and appreciation of music; and

WHEREAS, the West Louisville Boys Choir develops confidence, self-esteem, and motivation for the boys who participate; and

WHEREAS, some of the Choir's noteworthy performances include those at: the 1995 Black Family Conference, the National Association of Evangelical Churches Against World Hunger in March of 1995, the Martin Luther King celebration at the Governor's Mansion in February of 1995, the Christmas Concert with the Louisville Youth Orchestra at the Center for the Arts in December of 1996, the Spring Concert with Christ Church United Methodist at the Episcopal Cathedral in April of 1997, as well as many other fine performances too numerous to mention; and

WHEREAS; obtaining a position in this prestigious choir is all the more impressive because hundreds of boys compete for a limited number of positions each year.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hails this remarkable choir for its outstanding performances and dedication to developing musical talents in young boys.

Section 2. When the House of Representatives adjourns this day, Monday, March 9, 1998, it does so in honor of the West Louisville Boys Choir.

Section 3. The Clerk of the House of Representatives is directed to send copies of this resolution to the Executive Director of the West Louisville Boys Choir, Mr. McDaniel Bluitt, at Louisville Community Youth Choir, 546 S. 1st. Street, Louisville, Ky 40202.

The West Louisville Boys Choir performed.

Report On Enrolled Bills

HB 218 and **HB 392** delivered to the Senate and signed by the President. Delivered to the Governor on March 9, 1998 at 4:27 p.m.

Orders of the Day

HB 488, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scott moved the adoption of the Committee Substitute to **HB 488**. Agreed.

Representative Scott moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 488**. Agreed.

Representative Scott moved that **HB 488**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 1 (See March 9, 1998 roll call on **HB 488** - Appendix.) **HB 488**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Scott moved that the vote by which **HB 488**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 161, with Committee Substitute, Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 161**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 161**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 161**. Agreed.

Representative Burch moved that **HB 161**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 80, Nays 15 (See March 9, 1998 roll call on **HB 161** - Appendix.) **HB 161**, by way of Committee Substitute as amended, was passed. Representative Burch moved the adoption of Committee Amendment No. 5 Title to the Committee Substitute to **HB 161**. Agreed; and the title was agreed to. Representative Burch moved that the vote by which **HB 161**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 639, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Floor Amendment No. 2 to **HB 639**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 1 to **HB 639**. Agreed.

Representative Riggs moved that **HB 639**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 9, 1998 roll call on **HB 639** - Appendix.) **HB 639**, as amended, was passed and the title agreed to. Representative Riggs moved that the vote by which **HB 639**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 544**, by Representative Heleringer:

On page 1, line 11, by deleting "***four (4)***" and inserting in lieu thereof "***five (5)***"; and

On page 1, line 12, after "***Counties,***" by inserting "***one (1) in Breckinridge, Grayson, and Meade Counties,***"; and

On page 4, line 13, after "(14)", by inserting "***Forty-sixth Judicial Circuit***" and by placing a closing bracket at the end of the line; and

On page 4, line 14, by removing the bracket and strike through from "(15)".

Orders of the Day (Continued)

HB 450, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of the Committee Substitute to **HB 450**. Agreed.

Representative Ford moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 450**. Agreed.

Representative Ford moved that **HB 450**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 5 (See March 9, 1998 roll call on **HB 450** - Appendix.) **HB 450**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Ford moved that the vote by which **HB 450**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 591, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 591**. Agreed.

Representative Marzian moved that **HB 591**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 4 (See March 9, 1998 roll call on **HB 591** - Appendix.) **HB 591**, by way of Committee Substitute, was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 591**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 36, with Committee Substitutes and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of the Committee Substitute No. 2 to **HB 36**. Agreed.

Representative Mason moved the adoption of Committee Amendment No. 1 to the Committee Substitute No. 2 to **HB 36**. Agreed.

Representative Mason moved that **HB 36**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 9, 1998 roll call on **HB 36** - Appendix.) **HB 36**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Mason moved that the vote by which **HB 36**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 146, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative G. Graham moved the adoption of the Committee Substitute No. 2 to **HB 146**. Agreed.

Representative G. Graham moved the adoption of Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 146**. Agreed. Representative G. Graham moved that the vote by which Floor Amendment 1 to the Committee Substitute No. 2 to **HB 146** was adopted be reconsidered. Agreed.

Representative G. Graham moved the adoption of Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 146**. Agreed.

Representative G. Graham moved that **HB 146**, by way of Committee Substitute No. 2 as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 5 (See March 9, 1998 roll call on **HB 146** - Appendix.) **HB 146**, by way of Committee Substitute No. 2 as amended, was passed and the title agreed to. Representative G. Graham moved that the vote by which **HB 146**, by way of Committee Substitute No. 2 as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 230 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved that **HB 230** be passed.

On the roll call the vote was: Yeas 74, Nays 10 (See March 9, 1998 roll call on **HB 230** - Appendix.) **HB 230** was passed and the title agreed to. Representative Nesler moved that the vote by which **HB 230** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 511, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 511**. Agreed.

Representative Yonts moved that **HB 511**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 6 (See March 9, 1998 roll call on **HB 511** - Appendix.) **HB 511**, by way of Committee Substitute, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 511**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 559 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved that **HB 559** be passed.

On the roll call the vote was: Yeas 94, Nays 2 (See March 9, 1998 roll call on **HB 559** - Appendix.) **HB 559** was passed and the title agreed to. Representative Colter moved that the vote by which **HB 559** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 560, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **HB 560**. Agreed. Representative Barrows moved the adoption of Committee Amendment No. 2 to **HB 560**. Agreed.

Representative Barrows moved that **HB 560**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 9, 1998 roll call on **HB 560** - Appendix.) **HB 560**, as amended, was passed and the title agreed to. Representative Barrows moved that the vote by which **HB 560**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 590 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 590** be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 9, 1998 roll call on **HB 590** - Appendix.) **HB 590** was passed and the title agreed to. Representative Weaver moved that the vote by which **HB 590** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 634, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved the adoption of the Committee Substitute to **HB 634**. Agreed.

Representative J. Adams moved that **HB 634**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 9, 1998 roll call on **HB 634** - Appendix.) **HB 634**, by way of Committee Substitute, was passed and the title agreed to. Representative J. Adams moved that the vote by which **HB 634**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 640, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved the adoption of the Committee Substitute to **HB 640**. Agreed.

Representative J. Adams moved that **HB 640**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 9, 1998 roll call on **HB 640** - Appendix.) **HB 640**, by way of Committee Substitute, was passed and the title agreed to. Representative J. Adams moved that the vote by which **HB 640**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 708 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 708** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 9, 1998 roll call on **HB 708** - Appendix.) **HB 708** was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 708** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 206, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute to **HB 206**. Agreed.

Representative L. Clark moved that **HB 206**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 9, 1998 roll call on **HB 206** - Appendix.) **HB 206**, by way of Committee Substitute, was passed and the title agreed to. Representative L. Clark moved that the vote by which **HB 206**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 309, HB 342, HB 409, HB 476,** and **HB 542**. Message received on **HB 263**: The Senate has passed **HB 263** with Senate Committee Substitute, Senate Floor Amendment No. 1 and Senate Floor Amendment No. 8 and respectfully requests concurrence of this Honorable Body. (Time: 5:45 p.m.)

Orders of the Day (Continued)

HB 327, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of the Committee Substitute No. 2 to **HB 327**. Agreed.

Representative Wilkey moved that **HB 327**, by way of Committee Substitute, be passed.

Representative Jenkins moved the adoption of Floor Amendment No. 18 to the Committee Substitute No. 2 to **HB 327**. Rejected.

Representative Riner moved the adoption of Floor Amendment No. 15 to the Committee Substitute No. 2 to **HB 327**. On the roll call the vote was: Yeas 33, Nays 56. (See March 9, 1998, roll call on - Appendix.) Floor Amendment No. 15 to the Committee Substitute No. 2 to **HB 327** was rejected.

On the roll call on the passage of **HB 327**.the vote was: Yeas 90, Nays 4 (See March 9, 1998 roll call on **HB 327** - Appendix.) **HB 327**, by way of Committee Substitute, was passed and the title agreed to. Representative Coleman moved that the vote by which **HB 327**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement be waived on **HB 826, HB 785, HB 919, HB 922, SB 28, HCR 114, HJR 121, HJR 118, HB 666, HB 817, HB 819, HB 447, HB 3, HB 211, HB 66,** and **HB 794**. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Stumbo moved the adoption of the following **Legislative Citation No. 138**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in reverent memory of John Raymond Turner former Kentucky State Legislator and distinguished gentleman of this Commonwealth. He was the beloved son of the late Ervine and Marie R. Turner, cherished brother of Treva Howell and adored uncle of a niece and two nephews. A Democrat from Breathitt County, Mr. Turner is this day remembered for his service through four legislative sessions as a Kentucky Senator for the 28th and the 34th Districts and three sessions in the Kentucky House of Representatives as the Gentleman from Breathitt 89. John Raymond Turner was a graduate of Morehead State University and an honorable veteran of the United States Army. He served as Democratic County Chairman for Breathitt County and was a former election commissioner. This exceptional and devoted public servant served with great distinction the citizens of Breathitt County and this great Commonwealth; therefore, the members of this august body join with Representative Greg Stumbo in paying tribute to John Raymond Turner for the extraordinary contributions he made to this General Assembly and in expressing to his family deepest sympathy for this profound loss. **Legislative Citation No. 138** was adopted without objection. Roll call to show co-sponsors of **Legislative Citation No. 138**. (See March 9, 1998, co-sponsor roll call on Legislative Citation No. 138 - Appendix.)

Representative Palumbo moved that the rules be suspended to introduce a Resolution. Agreed.

HR 129, by Representatives Palumbo, Marzian, Johns, Stein, Jordan, Jenkins, Rader, Sims and Colter: A RESOLUTION honoring the United States Women's Hockey Team for capturing the Gold Medal at the 1998 Winter Olympics.

Representative Palumbo moved the adoption of the following **HR 129**:

HR 129, A RESOLUTION honoring the United States Women's Hockey Team for capturing the Gold Medal at the 1998 Winter Olympic Games.

WHEREAS, the United States Women's Hockey Team, on Tuesday, February 17, 1998, won the Gold Medal in the women's hockey final against Canada at the 1998 Winter Olympic Games in Big Hat Arena, Nagano, Japan; and

WHEREAS, the United States Women's Hockey Team achieved this goal through the hard work and determination truly befitting the Olympian ideal and tradition; and

WHEREAS, the United States Women's Hockey Team's Gold-Medal performance, sportsmanship, and team spirit at the 1998 Winter Olympic Games serve as inspiration to the athletes of the Commonwealth of Kentucky; and

WHEREAS, the United States Women's Hockey Team's determination and success to overcome the hurdles that were before it to play in what was traditionally a male-dominated sport encourage women to participate and succeed in sports;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives honors and congratulates the United States Women's Hockey Team for securing the Gold Medal in the 1998 Winter Olympic Games held in Nagano, Japan.

Section 2. This honorable body commends the United States Women's Hockey Team for its sensational performance, its dedication to the sport, and its team spirit and wishes it success in all its future endeavors.

Section 3. When the House of Representatives adjourns this day, March 9, 1998, it does so in honor of the United States Women's Hockey Team.

Section 4. The clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the United States Women's Hockey Team, USA Hockey, 1775 Bob Johnson Drive, Colorado Springs, CO 80906.

There being no objection **HR 129** was adopted. Roll call to show co-sponsors of **HR 129**. (See March 9, 1998, roll call on **HR 129** - Appendix.)

Representative Allen moved the adoption of the following **Legislative Citation No. 139**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers most sincere congratulations to Representative and Mrs. Billy Polston upon the joyous occasion of their Fortieth Wedding Anniversary. Whereas the celebration of forty years of beloved companionship constitutes an exceptional marriage; and whereas this honorable body holds in high esteem the extraordinary abilities necessary to cultivate and nurture a loving family and cherished friendships; Representative Woody Allen and the members of the 1998 Kentucky House of Representatives are honored to recognize these rare and unique virtues in Representative and Mrs. Billy Polston and to extend to them best wishes for continued years of happiness and fulfillment. **Legislative Citation No. 139** was adopted without objection.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 899**

Economic Development: **HCR 124, HB 843**

Judiciary: **SB 121**

Natural Resources and Environment: **HJR 121**

Counties and Special Districts: **HB 856, HB 793, HB 811, SB 288, SB 320;** Posting withdrawn on **HB 400**

Health and Welfare: **HCR 114**

Calendar

HB 319 and **HJR 35** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 342, HB 409, HB 476,** and **HB 542** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -6:20 p.m.) **HB 342, HB 409, HB 476,** and **HB 542** delivered to the Senate and signed by the President. Delivered to the Governor on March 9, 1998 at 6:46 p.m.

Motions, Petitions and Communications (Continued)

Representative D. Graham moved the adoption of the following **Legislative Citation No. 135**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Conkwright Middle School for the exemplary effort put forth in promoting the educational success of the students of Clark County. Inasmuch as the development of high caliber citizens who are prepared to meet the challenges of tomorrow is indeed noteworthy, this fine institution is applauded for its role in forming the future leaders of this great Commonwealth. The members of this distinguished body are pleased to join Representative Drew Graham in graciously welcoming the students of Conkwright Middle School to today's session of the Kentucky House of Representatives. **Legislative Citation No. 135** was adopted without objection.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Ratliff moved that his vote be changed from "nay" to "yea" on **HB 146**. Agreed. Representative Ratliff moved that his vote be changed from "yea" to "nay" on **HB 450**. Agreed. Representative Ratliff moved that he be recorded as voting "yea" on **HB 591**.

Representative Allen moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Allen moved that he be recorded as voting "nay" on **HB 591**. Agreed.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Burch moved that he be recorded as voting "yea" on **HB 627**. Agreed.

Representative Lee moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lee moved that he be recorded as voting "yea" on **HB 591**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Thomas moved that his vote be changed from "yea" to "nay" on **HB 230** and **HB 591**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Riggs moved that his vote be changed from "yea" to "abstain" on **HB 591**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Kerr moved that his vote be changed from "yea" to "nay" on **HB 602**. Agreed. Representative Kerr moved that his vote be changed from "nay" to "yea" on **HB 130**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Baugh moved that his vote be changed from "nay" to "yea" on **HB 161**. Agreed.

Representative Brandstetter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Brandstetter moved that he be recorded as voting "yea" on **HB 680**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative P. Clark moved that he be recorded as voting "yea" on **HB 537** and **HB 636**. Agreed. Representative P. Clark moved that his vote be changed from "yea" to "nay" on **HB 279**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Barrows moved that he be recorded as voting "yea" on **HB 327**. Agreed.

Representative Cox moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Cox moved that his vote be changed from "nay" to "yea" on **HB 488**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Ballard moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Simpson moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Yonts moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Scott moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Scott moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lindsay moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Marcotte moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Maricle moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Maricle moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative D. Graham moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative D. Graham moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Baugh moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Murgatroyd moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Murgatroyd moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative R. Adams moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crall moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Damron moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Damron moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative McKee moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Stine moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Stine moved that her vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative A. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative A. Arnold moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Bruce moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Bruce moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Ford moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Stacy moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Kerr moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Colter moved that her vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crimm moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Collins moved that his vote be changed from "yea" to "nay" on **HB 591**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 206, HB 327**, Representative Johns; **HB 206**, Representatives Weaver, Marzian, Hoffman; Riggs; **HB 444**, Representative Riggs; **HB 253, HB 760**, Representative D. Butler; **HB 444, HB 539, HB 603**, Representative Crimm; **HB 450**, Representative P. Clark; **HB 532**, Representative Richards; **HB 617, HB 653**, Representative Colter; **HB 725**, Representative

Vincent; **HB 760**, Representatives P. Clark, Nesler, Wayne, Horlander, Stein, Jenkins, Miller, Siler, Hatcher, Anderson, Maricle, Burch, Riner, L. Clark, Marzian, Jordan; **HCR 82**, Representative Walton.

The following member filed a request to have his name withdrawn as co-sponsors of a Bill under rules previously suspended: **HB 709**, Representative Crall.

Announcements

The following meetings were announced:

Appropriations and Revenue, Room 111, 7:00 p.m.

Transportation, Room 149, 9:00 a.m., March 10, 1998

Health and Welfare, 8:00 a.m., March 10, 1998

Judiciary, Room 131, 10:00 a.m. to 12:00 p.m., March 10, 1998

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 10, 1998.

On the roll call the vote was **Yeas 74**--J. Adams, R. Adams, Adkins, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Brown, Bruce, D. Butler, D. D. Butler, Callahan, L. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crimm, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Hoffman, Hogancamp, Jenkins, Johns, Kerr, Lee, Lindsay, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 8**--Allen, Cave, Crall, Hoover, Maricle, Nunn, Stewart, Walton.

The motion to adjourn was adopted.

TUESDAY, MARCH 10, 1998

FORTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Steve Knisley, Third Street Church of Christ, Pikeville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Lovell.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 9, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 612**, by Representative Vincent:

On page 1, line 9, after "***Highways***" by inserting "***or the Tourism Cabinet***";

On page 2, line 9, by deleting "***Transportation***" and inserting in lieu thereof "***Tourism***";

On page 2, line 13, by deleting "***commissioner of the Department of***";

On page 2, line 14, by deleting "***Highways***" and inserting in lieu thereof "***secretary of the Tourism Cabinet***";

On page 3, line 18, by deleting "***commissioner of the Department of Highways***" and inserting in lieu thereof "***secretary of the Tourism Cabinet***";

On page 3, line 20, by deleting "***commissioner of the Department of***";

On page 3, line 21, by deleting "***Highways***" and inserting in lieu thereof "***secretary of the Tourism Cabinet***";

On page 4, line 3, by deleting "***commissioner***";

On page 4, line 4, by deleting "***of the Department of Highways***" and inserting in lieu thereof "***secretary of the Tourism Cabinet***";

On page 4, line 14, by deleting "***Department of Highways***" and inserting in lieu thereof "***Tourism Cabinet***";

On page 4, line 16, by deleting "***Department of Transportation***" and inserting in lieu thereof "***Tourism Cabinet***";

On page 4, line 20, after "***Highways***" by inserting "***, at the request and direction of the secretary of the Tourism Cabinet,***";

On page 4, line 22, by deleting "***February***";

On page 4, line 23, by deleting "***"1, 1999,***" and inserting in lieu thereof "***sixty (60) days after receipt of a request and on the direction of the secretary of the Tourism Cabinet,***";

On page 4, line 27, after "***erected***" by inserting "***by the Tourism Cabinet***";

On page 5, line 14, by deleting "***Department of Transportation***" and inserting in lieu thereof "***Tourism Cabinet***";

On page 5, line 16, by deleting "***Department of Highways***" and inserting in lieu thereof "***Tourism Cabinet***";

On page 5, after line 22, by adding:

Section 5. KRS 177.073 is repealed, reenacted as a new section of KRS Chapter 148, and amended to read as follows:

The ***Tourism Cabinet***~~[Department of Highways]~~ shall erect within six hundred and sixty (660) feet of the right-of-way of any interstate, limited access highway, federal-aid primary highway, or turnpikes official directional signs and notices pertaining to publicly and privately owned natural wonders and scenic and historical attractions, including cultural, scientific, educational, and religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation deemed to be in the interest of the traveling public under the following conditions:

(1) Such signs shall not violate any federal law, rule***,*** or regulation, nor exceed any standards of size, lighting, spacing***,*** and message content as may be promulgated from time to time by the secretary of the United States Department of

Transportation under subsection (c) of Section 131 of title 23 of the United States Code affecting the allocation of federal funds to the Commonwealth of Kentucky.

(2) Such signs and notices shall not violate any safety standards set forth in KRS 177.830 to 177.890 nor any regulation promulgated by the ***secretary of the Tourism Cabinet***[~~commissioner of highways~~] pursuant to ***Section 2 of this Act***[~~KRS 177.860~~].

(3) The message content on such signs and notices shall be limited to the identification by name of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases, and pictorial or photographic representations of the activity or its environs are prohibited.

(4) The ***secretary of the Tourism Cabinet***[~~commissioner of highways~~] shall promulgate by regulations specific selection methods and criteria to be used in determining those sites and attractions, publicly and privately owned, for which directional signs and notices may be erected as permitted by subsection (c) Section 131 of Title 23, United States Code. A statement as to selection methods, criteria, and standards of size, lighting, and spacing shall be furnished to the secretary of the United States Department of Transportation before the ***Tourism Cabinet***[~~Department of Highways~~] erects any such directional signs and notices. The ***secretary***[~~commissioner~~] shall consider and determine, upon proper application to the ***Tourism Cabinet***[~~Department of Highways~~], those sites and attractions eligible for official directional signs and notices.

(5) The ***Tourism Cabinet***[~~Department of Highways~~] shall require reimbursement for the cost of erection and maintenance of official directional signs and notices authorized by this section when such sites or attractions are privately owned and shall prescribe the size, number, and locations of such signs and notices based upon its ***the criteria set forth in Section 2 of this Act***[~~determination of the traveler's need for information~~].

[~~(6) The commissioner of highways shall promulgate such reasonable rules and regulations necessary to carry on the provisions of this section.~~]

Section 6. Any funds appropriated in the 1998 final budget memorandum allocated to the Transportation Cabinet for the purpose of the design, erection, maintenance, regulation, and control of supplemental guide signs, limited supplemental guide signs, and post-interchange guide signs that are used to give direction, furnish advance notice, show mileage or exit indicators, or indicate access to historical sites or to scenic, cultural, and recreational tourist areas or attractions shall be transferred from the Transportation Cabinet to the Tourism Cabinet upon the effective date of this Act.

Floor Amendment No. 1 to **HB 670**, by Representative :

On page 1 at line 24, after "***party***" by deleting "***had actual knowledge***" and inserting "***knew or should have known***"

On page 2 beginning at line 2, after "***licensee***" by deleting "***had actual knowledge***" and inserting "***knew or should have known***"

Senate Message

Announcing passage of **SB 21, SB 349,** and **SB 363**. Message received on **HB 433**: The Senate has passed **HB 433** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Education: **SB 303, SB 309**

Report of Committees

The Committee on Transportation reported **HB 746, HB 886,** with Committee Substitute attached thereto, **HCR 97, HJR 109, HR 111, HJR 116, HJR 118, SB 211,** and **SJR 76,** with House Committee Substitute and House Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 746, AN ACT relating to commercial drivers licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

In addition to the penalties established by this chapter for driving a commercial motor vehicle under the influence of alcohol:

(1) Any person convicted of driving a commercial motor vehicle while the alcohol concentration of the person's blood or

breath is four hundredths (0.04) to eight hundredths (0.08) shall be fined not less than twenty dollars ($20) and not more than fifty dollars ($50).

(2) Any person convicted of driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath is greater than eight hundredths (0.08) shall be fined under the provisions of KRS 189A.010(4)(a) to (d).

HB 886, AN ACT relating to traffic regulations.

WHEREAS, in 1996, the Commonwealth experienced a total of 134,558 motor vehicle accidents and of that total, 738 were fatal traffic accidents and 36,434 were nonfatal injury accidents; and

WHEREAS, in 1996, 846 people were killed and 55,909 persons were injured; and

WHEREAS, the Kentucky State Police estimate that approximately one (1) in every five thousand (5,000) Kentucky residents died as a result of a fatal traffic accident in 1996; and

WHEREAS, in 1996, 6,150 accidents were alcohol related, killing 256 people while injuring 4,637 and representing thirty percent (30%) of all persons killed in traffic accidents in the Commonwealth; and

WHEREAS, cold hard statistics too often impersonalize the horror of what is happening on Kentucky's highways; and

WHEREAS, one of the Commonwealth's most exemplary citizens, Ms. Patty Nickoson, was hit by a drunk driver on the AA Highway on February 9, 1998; and

WHEREAS, the driver was not tested for the presence of drug or alcohol use even though the individual had a history of driving under the influence convictions; and

WHEREAS, on February 10, 1998, Patty Nickoson crossed that final bourne from which no traveller returns, only two (2) months and two (2) days shy of her fiftieth birthday;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.100 is amended to read as follows:

(1) ***Except as provided in subsection (3) of this section,*** law enforcement agencies may administer preliminary breath tests using devices or equipment which will ensure an accurate determination of blood alcohol content. ***The***[~~Such~~] tests may be administered in the field to a person suspected of violation of KRS 189A.010 before the person is arrested. This test may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law or in any administrative proceeding.

(2) Law enforcement agencies may record on film or video tape or by other visual and audible means field sobriety tests administered at the scene of an arrest for violation of KRS 189A.010 or ***other***[~~such~~] tests at a police station, jail, or other suitable facility subject to the following conditions:

(a) The testing is recorded in its entirety (except for blood alcohol analysis testing); and

(b) The entire recording is shown in court unless the defendant waives the showing of any portions not offered by the prosecution; and

(c) The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth; and

(d) The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense; and

(e) Recordings shall be used for official purposes only and shall be shown only in court, to the prosecution and defense in preparation for a trial, or upon the order of a court. Recordings shall otherwise be considered as confidential records; and

(f) After all appeals have been exhausted the recordings shall, upon the order of a District Court, be destroyed; and

(g) Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.

(3) All law enforcement agencies shall administer a field sobriety test at the scene of every motor vehicle accident that results in serious physical injury or death. The test shall be administered to every driver involved in the accident and the driver shall not be allowed to refuse to comply with the test. If the field sobriety test cannot be administered the driver shall submit to a blood or urine test.

Section 2. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

(1) He is deemed to have given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof,

for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if arrested for any offense arising out of a violation of KRS 189A.010(1) or 189.520(1).

(2) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.

(3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer ***responding to a motor vehicle accident involving serious physical injury or fatalities or at the direction of a peace officer who has***[~~having~~] reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).

(a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice Cabinet.

(b) All breath tests shall be administered by a peace officer holding a certificate, as an operator of a breath analysis instrument, issued by the secretary of the Justice Cabinet or his designee.

(4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument.

(5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.

(6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.

(7) The person tested shall be permitted to have a person listed in subsection (6) of this section of his own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 3. KRS 189A.105 is amended to read as follows:

(1) ***Except as provided in subsection (3) of this section, a***[~~No~~] person shall ***not*** be compelled to submit to any test or tests specified in KRS 189A.103, but his refusal to submit to ***the***[~~such~~] tests shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to ***the***[~~such~~] tests, the person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter; and

2. That, if a test is taken and the results indicate that the person has an alcohol concentration of 0.10 or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and ***a***[~~such~~] substance, the person shall be subject to criminal penalties and the person's driving license shall be revoked for a period of at least ninety (90) days; and

3. That the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

(3) All drivers involved in a motor vehicle accident that results in serious physical injury or death shall be compelled to submit to any test specified in Section 2 of this Act and shall not be allowed to refuse to comply with the test. A person who attempts to refuse to comply with the test shall be immediately taken before a judge of a court of competent jurisdiction who shall issue a search warrant or other court order requiring one (1) of the tests specified in Section 2 of this Act to be conducted.

Section 4. KRS 189.580 is amended to read as follows:

(1) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment [~~which~~]is involved in an accident resulting in ***serious physical*** injury to or death of any person ***shall be required to submit to the test required under subsection (3) of Section 1 of this Act. If an accident results in minor physical injury, serious physical injury, death, or property damage, the driver or drivers involved in the accident***[~~or resulting only in damage to a vehicle or other property which is driven or attended by any person~~] shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of

the[~~such~~] person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if[~~ such carrying is~~] requested ***to do so*** by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.

(2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to ***the***[~~such~~] other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of ***the***[~~such~~] vehicle or other property of his name, address, and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on ***the***[~~such~~] vehicle or other property a written notice giving his name, address, and the registration number of the vehicle he is driving, or shall file a report with the local police department.

(3) The operator of a vehicle involved in an accident in subsection (1) or (2) above resulting in injury to or death of any person or in which total property damage of five hundred dollars ($500) or more is sustained shall, within ten (10) days, report the matter in writing to the Justice Cabinet.

Section 5. KRS 189.635 is amended to read as follows:

(1) The Justice Cabinet, Department of State Police, shall be responsible for maintaining a reporting system for all vehicle accidents ***that***[~~which~~] occur within the Commonwealth. ***The***[~~Such~~] accident reports shall be utilized ***to***[~~for such purposes as will~~] improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of ***accident***[~~such~~] data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, ***the***[~~such~~] responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency. ***The officer shall also administer a field sobriety test at the scene of every motor vehicle accident that results in serious physical injury or death. The test shall be administered to every driver involved in the accident and the driver shall not be allowed to refuse to comply with the test. If the field sobriety test cannot be administered, the driver shall submit to a blood or urine test.***

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars ($500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) All accident reports filed with the Department of State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident. All other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (6) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and the insurers of any party who is the subject of the report, or to the attorneys of the parties.

(6) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.

Section 6. KRS 281A.220 is amended to read as follows:

(1) A person who drives a commercial motor vehicle within this state shall be deemed to have given his consent to take a test or tests of his blood, breath, or urine for the purpose of determining alcohol concentration, or the presence of other drugs.

(2) ***Except as provided in subsection (3) of this section,*** a test or tests may be administered in accordance with the provisions of KRS 189A.103 at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver has reasonable cause to believe that driver was driving a commercial motor vehicle while having alcohol or drugs in his system. A urine test shall be a test of last resort under the provisions of this section. The pretrial suspension provisions and implied consent provisions of KRS Chapter 189A shall be applicable to this

section.

(3) All law enforcement agencies shall administer a field sobriety test at the scene of every commercial motor vehicle accident that results in serious physical injury or death. The test shall be administered to every driver involved in the accident and the driver shall not be allowed to refuse to comply with the test. If the field sobriety test cannot be administered, the driver shall submit to a blood or urine test.

Section 7. This Act may be cited as the Patty Nickoson Act.

The Committee Substitute to **HB 886** is as follows:

AN ACT relating to traffic regulations.

WHEREAS, in 1996, the Commonwealth experienced a total of 134,558 motor vehicle accidents and of that total, 738 were fatal traffic accidents and 36,434 were nonfatal injury accidents; and

WHEREAS, in 1996, 846 people were killed and 55,909 persons were injured; and

WHEREAS, the Kentucky State Police estimate that approximately one (1) in every five thousand (5,000) Kentucky residents died as a result of a fatal traffic accident in 1996; and

WHEREAS, in 1996, 6,150 accidents were alcohol related, killing 256 people while injuring 4,637 and representing thirty percent (30%) of all persons killed in traffic accidents in the Commonwealth; and

WHEREAS, cold hard statistics too often impersonalize the horror of what is happening on Kentucky's highways; and

WHEREAS, one of the Commonwealth's most exemplary citizens, Ms. Patty Nickoson, was hit by a drunk driver on the AA Highway on February 9, 1998; and

WHEREAS, the driver was not tested for the presence of drug or alcohol use even though the individual had a history of driving under the influence convictions; and

WHEREAS, on February 10, 1998, Patty Nickoson crossed that final bourne from which no traveller returns, only two (2) months and two (2) days shy of her fiftieth birthday;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.100 is amended to read as follows:

(1) ***Except as provided in subsection (3) of this section,*** law enforcement agencies may administer preliminary breath tests using devices or equipment which will ensure an accurate determination of blood alcohol content. ***The***[~~Such~~] tests may be administered in the field to a person suspected of violation of KRS 189A.010 before the person is arrested. This test may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law or in any administrative proceeding.

(2) Law enforcement agencies may record on film or video tape or by other visual and audible means field sobriety tests administered at the scene of an arrest for violation of KRS 189A.010 or ***other***[~~such~~] tests at a police station, jail, or other suitable facility subject to the following conditions:

- (a) The testing is recorded in its entirety (except for blood alcohol analysis testing); and
- (b) The entire recording is shown in court unless the defendant waives the showing of any portions not offered by the prosecution; and
- (c) The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth; and
- (d) The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense; and
- (e) Recordings shall be used for official purposes only and shall be shown only in court, to the prosecution and defense in preparation for a trial, or upon the order of a court. Recordings shall otherwise be considered as confidential records; and
- (f) After all appeals have been exhausted the recordings shall, upon the order of a District Court, be destroyed; and
- (g) Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.

(3) All law enforcement agencies shall request all drivers involved in a motor vehicle accident that results in serious injury or death to submit to a field sobriety test at the scene of the accident. If a driver refuses to comply with the officer's request, the refusal shall have the same effect as refusing to comply under this chapter.

Section 2. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

(1) He is deemed to have given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if arrested for any offense arising out of a violation of KRS 189A.010(1) or 189.520(1).

(2) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.

(3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer ***responding to a motor vehicle accident involving serious physical injury or fatalities or at the direction of a peace officer who has***[~~having~~] reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).

(a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice Cabinet.

(b) All breath tests shall be administered by a peace officer holding a certificate, as an operator of a breath analysis instrument, issued by the secretary of the Justice Cabinet or his designee.

(4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument.

(5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.

(6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.

(7) The person tested shall be permitted to have a person listed in subsection (6) of this section of his own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 3. KRS 189A.105 is amended to read as follows:

(1) ***Except as provided in subsection (3) of this section, a***[~~No~~] person shall ***not*** be compelled to submit to any test or tests specified in KRS 189A.103, but his refusal to submit to ***the***[~~such~~] tests shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to ***the***[~~such~~] tests, the person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter; and

2. That, if a test is taken and the results indicate that the person has an alcohol concentration of 0.10 or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and ***a***[~~such~~] substance, the person shall be subject to criminal penalties and the person's driving license shall be revoked for a period of at least ninety (90) days; and

3. That the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

(3) All drivers involved in a motor vehicle accident that results in serious physical injury or death shall be requested to submit to one (1) of the tests specified in Section 2 of this Act. A person who refuses a test shall be subject to the provisions of this chapter for refusing to comply with a test.

Section 4. KRS 189.580 is amended to read as follows:

(1) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment [~~which~~]is involved in an accident resulting in ***serious physical*** injury to or death of any person ***shall be requested to submit to the test required under subsection (3) of Section 1 of this Act. If an accident results in minor physical injury, serious physical injury, death, or property damage, the driver or drivers involved in the accident***[~~or resulting only in damage to a vehicle or other property which is driven or attended by any person~~] shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of

the[~~such~~] person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if[~~ such carrying is~~] requested ***to do so*** by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.

(2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to ***the***[~~such~~] other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of ***the***[~~such~~] vehicle or other property of his name, address, and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on ***the***[~~such~~] vehicle or other property a written notice giving his name, address, and the registration number of the vehicle he is driving, or shall file a report with the local police department.

(3) The operator of a vehicle involved in an accident in subsection (1) or (2) above resulting in injury to or death of any person or in which total property damage of five hundred dollars ($500) or more is sustained shall, within ten (10) days, report the matter in writing to the Justice Cabinet.

Section 5. KRS 189.635 is amended to read as follows:

(1) The Justice Cabinet, Department of State Police, shall be responsible for maintaining a reporting system for all vehicle accidents ***that***[~~which~~] occur within the Commonwealth. ***The***[~~Such~~] accident reports shall be utilized ***to***[~~for such purposes as will~~] improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of ***accident***[~~such~~] data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, ***the***[~~such~~] responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency. ***The officer shall also request all drivers involved in a motor vehicle accident that results in serious physical injury or death to submit to a field sobriety test. If a driver refuses to comply with the officer's request, the refusal shall have the same effect as refusing to comply under KRS Chapter 189A.***

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars ($500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) All accident reports filed with the Department of State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident. All other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (6) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and the insurers of any party who is the subject of the report, or to the attorneys of the parties.

(6) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.

Section 6. KRS 281A.220 is amended to read as follows:

(1) A person who drives a commercial motor vehicle within this state shall be deemed to have given his consent to take a test or tests of his blood, breath, or urine for the purpose of determining alcohol concentration, or the presence of other drugs.

(2) ***Except as provided in subsection (3) of this section,*** a test or tests may be administered in accordance with the provisions of KRS 189A.103 at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver has reasonable cause to believe that driver was driving a commercial motor vehicle while having alcohol or drugs in his system. A urine test shall be a test of last resort under the provisions of this section. The pretrial suspension provisions and implied consent provisions of KRS Chapter 189A shall be applicable to this

section.

(3) All law enforcement agencies shall request all drivers involved in a motor vehicle accident that results in serious injury or death to submit to a field sobriety test. If a driver refuses to comply with the officer's request, the refusal shall have the same effect as refusing to comply with tests under KRS Chapter 189A.

Section 7. This Act may be cited as the Patty Nickoson Act.

HCR 97, A CONCURRENT RESOLUTION in recognition of J. Roy Shoffner and the restoration of the P-38 and in support of an aviator museum.

WHEREAS, the restoration of this historic aircraft commemorates the activities, adventures, and history of the Lost Squadron; and the restoration of the P-38 constitutes a unique recognition of the role of United States aviators in World War II; and

WHEREAS, the project provides an avenue for Kentucky to lead the nation in honoring aviators and their role in World War II, as well as other wars and conflicts in which Kentucky aviators have demonstrated their valor and courage;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly of the Commonwealth of Kentucky hereby honors, salutes, and congratulates the effort put forth by J. Roy Shoffner, entrepreneur and philanthropist, for creating this unique shrine to Kentucky aviators.

Section 2. The General Assembly of the Commonwealth of Kentucky pledges its support for the planning of the development of a complete museum honoring the role of aviators in World War II, and pledges to assist the project in whatever manner possible towards completion of that task.

HJR 109, A JOINT RESOLUTION naming the new bridge on US 641 over the East Fork of the Clarks River in north Benton the "Coy B. Creason Bridge".

WHEREAS, Coy B. Creason was born on September 23, 1929, and achieved fame as a four-year letterman on the State Champion Brewers High School basketball team and was named Kentucky's Mr. Basketball in 1948; and

WHEREAS, Coy B. Creason attended Memphis State University, served as captain and co-captain on its basketball team, was selected to the All-Time Memphis State Team in 1960, and was named as one of ten outstanding seniors; and

WHEREAS, upon returning to Benton in 1952, Coy B. Creason went to work for Atochem in Calvert City and began his political career as a Benton City councilman in the 1960's; and

WHEREAS, Coy B. Creason was elected Mayor of Benton in 1973, and held that office for 24 years until he died; and

WHEREAS, Coy B. Creason was a timeless worker for his constituents and city employees, and lived as he played basketball: at a fast pace, while showing respect, consideration, and good sportsmanship to one and all;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the new bridge on US 641 over the East Fork of the Clarks River in north Benton the "Coy B. Creason Bridge".

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "Coy B. Creason Bridge" to facilitate their erection upon the effective date of this Resolution.

Section 3. A copy of this Resolution shall be sent to Melonie Chambers, Marshall County courthouse, Benton, Kentucky 42025.

HB 111, A RESOLUTION encouraging the Kentucky Congressional delegation to address inequities in mass transit funding.

WHEREAS, a portion of the federal fuel taxes collected in each state goes into a special mass transit account at the federal level, which is then distributed to the states to support mass transportation; and

WHEREAS, Kentucky is a donor state for this program, with over $38,000,000 in federal fuel taxes collected in the state going into the mass transit account in fiscal year 1995, and only $16,800,000 being returned to Kentucky; and

WHEREAS, Kentucky receives only $0.44 back for every dollar it contributes in federal fuel taxes; and

WHEREAS, in fiscal year 1995, a recipient state such as New York, which contributed over $97,000,000 to the Mass Transit Account in 1994, received over $964,000,000, a rate of return of $9.91 for every dollar contributed; and

WHEREAS, eighteen other states are in the same position as Kentucky in being a donor state to this program; and

WHEREAS, the following table, based on information from the American Public Transit Association, gives a detailed account of the inequities in this program by listing each states' contributions and receipts:

FY 1995 PAYMENTS INTO AND RECEIPTS
FROM THE HIGHWAY TRUST FUND - TRANSIT FUNDS
(Donor States are marked with an asterisk.)

STATE	RATE OF RETURN	AMOUNT PAID	AMOUNT RETURNED
Alabama*	0.38	44,542	16,920
Alaska	1.24	4,719	5,865
Arizona	1.87	36,589	68,543
Arkansas*	0.27	27,000	7,271
California	5.20	232,663	1,210,941
Colorado	1.25	30,048	37,535
Connecticut	3.09	23,554	72,736
Delaware	1.58	6,301	9,927
Dist of Columbia	31.31	2,958	92,625
Florida	1.56	113,348	176,814
Georgia	1.35	76,756	103,810
Hawaii	3.31	6,486	21,437
Idaho*	0.41	10,609	4,299
Illinois	4.58	88,662	406,223
Indiana*	0.86	58,064	50,223
Iowa	1.16	28,177	32,666
Kansas*	0.77	23,099	17,805
Kentucky*	0.44	38,568	16,789
Louisiana	1.23	36,095	44,315
Maine	3.82	11,347	43,382
Maryland	3.24	37,868	122,707
Massachusetts	5.42	41,719	226,060

Michigan	1.17	80,138	93,623
Minnesota	1.05	41,936	44,231
Mississippi*	0.18	26,660	4,815
Missouri	1.08	54,721	58,900
Montana*	0.43	9,237	4,004
Nebraska*	0.35	15,916	5,602
Nevada	1.92	13,839	26,638
New Hampshire*	0.45	9,186	4,115
New Jersey	8.93	61,758	551,372
New Mexico*	0.39	18,175	7,071
New York	9.91	97,400	964,791
North Carolina*	0.95	66,020	62,861
North Dakota*	0.43	7,090	3,026
Ohio	1.76	92,989	163,598
Oklahoma*	0.50	33,712	16,753
Oregon	6.20	27,001	167,385
Pennsylvania	6.05	89,238	539,890
Rhode Island	2.23	6,291	14,005
South Carolina*	0.33	37,249	12,473
South Dakota*	0.45	8,478	3,815
Tennessee	1.06	51,404	54,568
Texas	2.04	171,125	348,835
Utah	2.23	15,730	35,073
Vermont	1.38	5,760	7,942
Virginia*	0.79	59,309	46,627
Washington	1.22	45,678	55,701
West Virginia	1.09	16,249	17,679

Wisconsin	1.29	42,802	55,377
Wyoming*	0.26	7,799	2,021

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives, in an effort to correct the blatant inequities in funding the federal mass transit program, encourages Kentucky's congressional delegation to address the inequities and find a more fair system of distributing funds for mass transit during the forthcoming deliberations on this issue.

Section 2. The Clerk of the House is hereby directed to transmit copies of this Resolution to the Honorable Paul Patton, Governor, The State Capitol, Frankfort, Kentucky 40601; the Honorable Rodney E. Slater, Secretary, United States Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590; the Honorable Wendell H. Ford, 173A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Mitch McConnell, 361A Russell Senate Office Building, Washington, D.C. 20510; the Honorable Ed Whitfield, 236 Cannon House Office Building, Washington, D.C. 20515; the Honorable Ron Lewis, 412 Cannon House Office Building, Washington, D.C. 20515; the Honorable Anne Northup, 1004 Longworth Office Building, Washington, D.C. 20515; the Honorable Jim Bunning, 2437 Rayburn House Office Building, Washington, D.C. 20515; the Honorable Harold Rogers, 2468 Rayburn Office Building, Washington, D.C. 20515; and the Honorable Scotty Baesler, 113 Cannon House Office Building, Washington, D.C. 20515.

HJR 116, A JOINT RESOLUTION directing the Transportation Cabinet to name the bridge on US 62 over the North Fork of the Licking River in Mason County in memory of Lloyd "Buss" Hitt.

WHEREAS, Lloyd "Buss" Hitt was born on August 8, 1907, in Mason County, Kentucky; and

WHEREAS, Lloyd "Buss" Hitt served as Sheriff of Mason County from 1962 to 1966; and

WHEREAS, Lloyd "Buss" Hitt showed his concern for his neighbors through a lifetime of community involvement; and

WHEREAS, Lloyd "Buss" Hitt passed away on December 30, 1996 and his memory is cherished by his wife, Margaret, his son, William D. Hitt, and his three daughters, Betty Jane Chain, Mary Leslie Borger, and Jo Ann Berry; and

WHEREAS, Lloyd "Buss" Hitt worked diligently to replace the bridge and approaches on US 62 over the North Fork of the Licking River, a road that was prone to flooding, causing lengthy detours and severely affecting the delivery of emergency services; and

WHEREAS, Lloyd "Buss" Hitt's determination has paid dividends with the construction of a new bridge over the North Fork of the Licking River in 1984 and current work to elevate the bridge's approaches out of the flood plain;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the bridge on US 62 over the North Fork of the Licking River the "Lloyd "Buss" Hitt Memorial Bridge".

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "Lloyd "Buss" Hitt Memorial Bridge" to facilitate their erection upon the effective date of this Resolution.

Section 3. A copy of this Resolution shall be sent to the Secretary of the Transportation Cabinet and to Mr. William D. Hitt, 221 Duke of York, Maysville, Kentucky 41056.

HJR 118, A JOINT RESOLUTION directing the Transportation Cabinet to name US 23 current route from the Letcher/Pike County line to the top of Dorton Hill in honor of Marlow Tackett and to erect appropriate highway signs.

WHEREAS, Marlow Tackett was born on February 28, 1948, in Dorton, Kentucky; and

WHEREAS, Marlow Tackett has had a 25-year career in country music; and

WHEREAS, Marlow Tackett recorded such songs as "Searching For My Mind" and "Would You Know Love" and made three appearances at the legendary Grand Ole Opry; and

WHEREAS, Marlow Tackett has brought entertainment back to his native Pike County by operating the Country Palace night club, a stop for many great country stars; and

WHEREAS, Marlow Tackett has spread holiday cheer throughout Eastern Kentucky with his Christmas party for needy families, held this past December for the 21st time, and his Christmas tour of nursing homes, rest homes, and health-care centers in Pike, Floyd, Letcher, Martin, Johnson, and Magoffin Counties; and

WHEREAS, Marlow Tackett deserves recognition for his talents, accomplishments, and good works;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name US 23 current route from the Letcher/Pike County line to the top of Dorton Hill the "Marlow Tackett Highway."

Section 2. The Transportation Cabinet shall prepare appropriate signs to be erected at each end of the highway by the effective date of this Resolution.

Section 3. A copy of this Resolution shall be sent to the Secretary of the Transportation Cabinet, the District Highway Engineer in Pikeville, Kentucky, and Mr. Marlow Tackett, North Mayo Trail, Pikeville, Kentucky 41501.

SB 211, AN ACT relating to highways and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.050 is amended to read as follows:

(1) The department shall:

(a) Investigate all problems relating to the construction and maintenance of roads in the state;

(b) Examine all projects and ascertain the feasibility of all routes;

(c) Obtain information as to the proper type of road for any project;

(d) Examine all types of road materials which may be used in the construction or maintenance of any road to be constructed by the department or under its direction or supervision;

(e) ***Require the design plans for all road projects constructing a new route to identify, if at all feasible, one (1) or more publicly owned sites at least four (4) acres in size, along the proposed new route that will be used as waste sites during the construction phase of the project but that have the potential for a city, county, or other governmental entity to turn the site into an industrial park upon completion of the road project, regardless of whether the site currently has the infrastructure necessary to support an industrial park;***

(f) Consult with all legislative bodies affected by a new road construction project during the design phase for the purpose of soliciting local government officials' preferences for the location of waste sites that could be turned into an industrial park;

(g) From time to time, examine and have examined and audited all of its books, papers and records;

(h)[~~(f)~~] Cause to be made all necessary surveys in the establishment and construction of the system of public highways; all necessary maps, prints, plans and specifications of all work to be done on the roads; estimates of costs; advertisement for bids; contracts for construction or maintenance; and all necessary forms in connection therewith; and

(i)[~~(g)~~] ***Promulgate administrative***[~~Prescribe rules and~~] regulations ***under KRS Chapter 13A*** for the care and maintenance of roads after they have been constructed.

(2) The department may ***publish***[~~have published from time to time~~] bulletins containing useful information concerning the construction and maintenance of roads.

(3) ***An***[~~No~~] invoice or bill to be paid out of the road or bridge funds shall ***not*** be approved by the department for payment until it has been carefully examined by the department to ascertain ***if the***[~~whether such~~] bill or invoice is in every respect a proper and legitimate charge against the road or bridge funds. The commissioner may call before him any person who may have information respecting any bill or invoice.

SECTION 2. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

Waste sites identified in Section 1 of this Act shall be on property owned by the state or a city, county, or other governmental agency and have the potential to be turned into industrial parks under the provisions of Section 1 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) During the construction phase of a new road construction project, potential industrial park sites identified during the design phase shall be used as waste sites by the department or the contractor who was awarded the project. Waste shall include, but not be limited, to nonhazardous nonsoluble construction material, steel, concrete, brick, asphalt, rock, dirt, or other fill material, but shall not include vegetation resulting from land clearing and grubbing, utility line maintenance, seasonal and storm-related cleanup, or any hazardous material or hazardous waste as defined in KRS 174.405.

(2) The purpose of using the site as a repository for waste is to reduce the cost associated with the road project and to level or otherwise create a site sufficient to support industrial activities. The department or the department's contractor shall use stabilization methods to reduce significant differential settling of the waste. The department or

the department's contractor shall continually grade and compact the waste site, and design surface contours to minimize water run-off, until the site is stable, final grading is complete, and the site is ready for building to begin on an industrial park.

(3) If a waste site is owned by the state, the state shall deed in fee simple the area used as a waste site to an interested city, county, or other governmental agency upon completion of the highway project after the final pay estimate has been processed.

(4) The department shall upon the effective date of this Act begin consulting with the appropriate elected officials affected by new routes proposed to be constructed in the 1999-2004 six (6) year highway plan and each enacted six (6) year highway plan thereafter. The department shall consult with the appropriate elected officials to identify waste sites along the proposed new routes that may be potential industrial park sites.

Section 4. Whereas the majority of road construction projects are prepared for letting in early spring each year to maximize the construction season, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SJR 76, A JOINT RESOLUTION directing the Transportation Cabinet to name the segment of U.S. 62 from Beaver Dam to Leitchfield, the "Blue Moon of Kentucky Highway", and the segment of KY 231 from Beaver Dam to Hartford, the "Bill Monroe Memorial Boulevard", and to erect the appropriate highway signs.

WHEREAS, William Smith Monroe, the father of bluegrass music, was just shy of his 85th birthday when he was taken from us to pick with others of his time in the heavens above; and

WHEREAS, Bill Monroe, loved and admired by all, passed away on September 9, 1996, and was buried near his boyhood home in Rosine, Kentucky; and

WHEREAS, Bill Monroe had a rare creative spirit and unique ability to bring people together to share in his music and experience his gift of love; and

WHEREAS, Bill Monroe's music was born of his homeland and became a special American musical form enjoyed by millions throughout the world;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the segment of U.S. 62 from Beaver Dam to Leitchfield, the "Blue Moon of Kentucky Highway" and the segment of KY 231 from Beaver Dam to Hartford, the "Bill Monroe Memorial Boulevard".

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs to facilitate their erection upon the effective date of this Resolution.

Section 3. A copy of this Resolution shall be sent to the Secretary of the Transportation Cabinet and the fiscal courts of Ohio and Grayson counties.

The House Committee Substitute to **SJR 76** is as follows:

A JOINT RESOLUTION directing the Transportation Cabinet to name the segment of U.S. 62 from Beaver Dam to Leitchfield, the "Blue Moon of Kentucky Highway", and the segment of KY 231 from Beaver Dam to Hartford, the "Bill Monroe Memorial Boulevard", and to erect the appropriate highway signs.

WHEREAS, William Smith Monroe, the father of bluegrass music, was just shy of his 85th birthday when he was taken from us to pick with others of his time in the heavens above; and

WHEREAS, Bill Monroe, loved and admired by all, passed away on September 9, 1996, and was buried near his boyhood home in Rosine, Kentucky; and

WHEREAS, Bill Monroe had a rare creative spirit and unique ability to bring people together to share in his music and experience his gift of love; and

WHEREAS, Bill Monroe's music was born of his homeland and became a special American musical form enjoyed by millions throughout the world; and

WHEREAS, in 1996, the Commonwealth experienced a total of 134,558 motor vehicle accidents and of that total, 738 were fatal traffic accidents and 36,434 were nonfatal injury accidents; and

WHEREAS, in 1996, 846 people were killed and 55,909 persons were injured; and

WHEREAS, the Kentucky State Police estimate that approximately one (1) in every five thousand (5,000) Kentucky residents died as a result of a fatal traffic accident in 1996; and

WHEREAS, cold hard statistics too often impersonalize the horror of what is happening on Kentucky's highways; and

WHEREAS, one (1) of the Commonwealth's native daughters - one (1) of the Commonwealth's brightest hopes - one (1) of the Commonwealth's most exemplary young adults was Jamie Lee Burke; and

WHEREAS, Jamie Lee Burke's young life was abruptly ended during a tragic traffic accident on the Preston Highway in Jefferson and Bullitt Counties; and

WHEREAS, Jamie Lee Burke's legacy should be that life is a fragile gift and that traffic safety should be a priority for all who travel our nation's highways; and

WHEREAS, Jamie Lee Burke is a young woman we should never forget;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name the segment of U.S. 62 from Beaver Dam to Leitchfield, the "Blue Moon of Kentucky Highway" and the segment of KY 231 from Beaver Dam to Hartford, the "Bill Monroe Memorial Boulevard".

Section 2. The Transportation Cabinet is directed to name the segment of the Preston Highway from milepoint 0.00 at the Jefferson County line extending north to milepoint 0.33, the "Jamie Lee Burke Memorial Highway".

Section 3. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs to facilitate their erection upon the effective date of this Resolution.

Section 4. A copy of this Resolution shall be sent to the Secretary of the Transportation Cabinet and the fiscal courts of Jefferson, Bullitt, Ohio, and Grayson counties.

The House Committee Amendment No. 1 Title to **SJR 76** is as follows:

By amending the title to read as follows:

"A JOINT RESOLUTION directing the Transportation Cabinet to name segments of several highways in honor of Bill Monroe and Jamie Lee Burke."

The Committee on Health and Welfare reported **HB 285**, with Committee Substitute and Committee Amendment attached thereto, **HB 561**, with Committee Substitute attached thereto, **HB 603**, **HB 652**, with Committee Substitute attached thereto, **HB 756**, **HB 785**, with Committee Substitute and Committee Amendment attached thereto, **HCR 103**, **HCR 114**, **HCR 126**, **SB 28**, and **SB 68** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 285, AN ACT relating to emergency medical services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) When it appears that a person whom a paramedic has been called to attend is dead, the paramedic shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead prior to resuscitation of the patient by the paramedic or an emergency medical technician who has responded with or after the paramedic. If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the paramedic may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.

(2) In the event that a paramedic determines that a person is dead, the paramedic shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.

(3) Any paramedic course taught after the effective date of this section shall include a course of instruction on the determination of death and preservation of evidence as required by the Board of Medical Licensure by administrative regulation.

(4) Any paramedic recertified within the two (2) years following the effective date of this Act shall successfully complete in-service training required by the Board of Medical Licensure by administrative regulation relating to determination of death and preservation of evidence. Any paramedic who does not successfully complete the required in-service training shall not be recertified.

(5) Any paramedic from another jurisdiction desiring to become a paramedic in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection (4) of this section, and certification as a paramedic shall be denied if the required evidence is not shown.

(6) The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead

person prior to the arrival of the paramedic by any person, for the purposes of this section and KRS 446.400, shall not be considered as artificial maintenance of respiration and circulation. The administration of advanced cardiac life support procedures by any person prior to the arrival of the paramedic shall preclude the determination of death by the paramedic, and the provisions of KRS 446.400 shall apply. However, nothing in this section shall preclude the supervising physician from directing the paramedic to cease resuscitative efforts under approved agency medical protocols.

(7) Defibrillation of the heart by the delivery of an electrical impulse to the heart by an automatic external defibrillator or other defibrillation device shall not be considered basic life support, and the use of a defibrillation device for defibrillation of the heart shall invoke the provisions of KRS 446.400. Monitoring of electrical activity in the heart through the use of a defibrillation device or other heart monitor without the delivery of an electrical impulse to defibrillate the heart shall not invoke the provisions of KRS 446.400.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A paramedic who is off duty and out of his or her normal service area who, in an emergency situation, comes across a person in need of advanced life support and who has the equipment and supplies necessary to perform advanced life support may render such advanced life support care as is reasonably necessary. The provision of this care is subject to the approval of the paramedic's medical director and ambulance service provider.

(2) A paramedic who renders advanced life support in a situation described in subsection (1) of this section shall:

(a) If the patient is transported to a medical care facility, accompany that patient to the medical care facility unless the responding ambulance has a paramedic, nurse, or physician on board; and

(b) Within five (5) working days make a written report to the paramedic's medical director of his or her ambulance service as to the details of the incident. Submission of a copy of the ambulance run form to the medical director shall meet the requirements of this section.

Section 3. KRS 311.658 is amended to read as follows:

(1) Paramedics shall be permitted to render services***, skills, and procedures specified by the Board of Medical Licensure by administrative regulation,***~~[only in emergency situations,]~~ and~~[shall]~~ perform ***these***~~[such]~~ services under ***the*** supervision of a qualified and licensed ***physician***~~[health practitioner]~~.

(2) Paramedics may provide their services, skills, and procedures in and out of a hospital setting, in transfers between medical facilities, and for training and skill maintenance purposes in other locations specified by the board by administrative regulation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Each ambulance service utilizing a medical director to supervise paramedics or other employees of the ambulance service or graduate paramedics may provide liability insurance for the medical director for any acts or omissions of the medical director or those persons whom the medical director supervises. The insurance shall be limited to those acts or omissions arising from the provision of medical direction to the ambulance service.

(2) The amount of the insurance shall be arrived at by written contract between the ambulance service and the medical director.

(3) The State Board of Medical Licensure shall have sole jurisdiction regarding any complaint relating to the medical supervision of an ambulance service or ambulance service personnel against a physician performing in the role of medical director for an ambulance service for basic or advanced life support services.

Section 5. KRS 216B.410 is amended to read as follows:

(1) Each licensed ambulance provider and medical first response provider as defined in KRS 211.952(2) shall collect and provide to the cabinet run data and information required by the cabinet by administrative regulation.

(2) The cabinet shall develop a run report form for the use of each class of ambulance provider and medical first response provider containing the data required in subsection (1) of this section. An ambulance provider or medical first response provider may utilize any run form it chooses in lieu of or in addition to the cabinet-developed run report form. However, the data captured on the run report form shall include at least that required by the administrative regulations promulgated pursuant to subsection (1) of this section.

(3) An ambulance provider or medical first response provider may report the required run report data and information by sending copies of the completed run report forms to the cabinet or by transmitting the required data and information to the cabinet in an electronic format. If the cabinet requires the use of a specific electronic format it shall provide a copy of the file layout requirements, in either written or electronic format, to the licensed ambulance provider or medical first response provider at no charge.

(4) Each ambulance provider or medical first response provider shall submit its run reports or data summary reports in electronic format on the time schedule specified by the cabinet by administrative regulation.

(5) The cabinet shall publish a comprehensive annual report reflecting the data collected, injury and illness data, treatment utilized, and other information deemed important by the cabinet. The annual report shall not include patient identifying information or any other information identifying a natural person. A copy of the comprehensive annual report shall be forwarded by the cabinet to the Kentucky Board of Medical Licensure.

(6) Ambulance provider and medical first response provider run report forms and the information transmitted electronically to the cabinet shall be confidential. No person shall make an unauthorized release of information on an ambulance run report form or medical first response run report form. Only the patient or the patient's parent or legal guardian if the patient is a minor, or the patient's legal guardian or person with proper power of attorney if the patient is under legal disability as being incompetent or mentally ill, or a court of competent jurisdiction may authorize the release of information on a patient's run report form or the inspection or copying of the run report form. Any authorization for the release of information or for inspection or copying of a run report form shall be in writing.

(7) If a medical first response provider or ambulance provider does not use a paper form but collects patient data through electronic means, it shall have the means of providing a written run report that includes all required data elements to the medical care facility. A copy of the medical first response form or a summary of the run data and patient information shall be made available to the ambulance service that transports the patient. A copy of the ambulance run report form shall be made available to any medical care facility to which a patient is transported and shall be included in the patient's medical record by that facility. If a patient is not transported to a medical facility, the copy of the run report form that is to be given to the transporting ambulance provider or medical care facility shall be given to the patient or to the patient's parent or legal guardian. If the ambulance provider, medical facility, patient, or patient's legal guardian refuses delivery of their run report form or is unavailable to receive the form, that copy of the form shall be returned to the medical first response provider or ambulance provider and destroyed.

(8) All[~~ conforming~~] ambulance services[~~, but no nonconforming ambulance services,~~] shall be required to keep adequate reports and records to be maintained at the ambulance base headquarters, and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:

[~~(1) Two (2) copies of the Kentucky emergency medical service ambulance run report form, one (1) copy to be kept in the files of the ambulance services and one (1) copy to be submitted to the hospital to which the patient is transported and maintained in the hospital's files, or ambulance run report information compiled and disseminated by electronic means approved by the Cabinet for Human Resources;~~

~~(2)~~]*(a)* Employee records, including a resume of each employee's training and experience and evidence of current certification; and

(b)[~~(3)~~] Health records of all drivers and attendants including records of all illnesses or accidents occurring while on duty.

The Committee Substitute to **HB 285** is as follows:

AN ACT relating to emergency medical services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) When it appears that a person whom a paramedic has been called to attend is dead, the paramedic shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead prior to resuscitation of the patient by the paramedic or an emergency medical technician who has responded with or after the paramedic. If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the paramedic may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.

(2) In the event that a paramedic determines that a person is dead, the paramedic shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.

(3) Any paramedic course taught after the effective date of this section shall include a course of instruction on the determination of death and preservation of evidence as required by the Board of Medical Licensure by administrative regulation.

(4) Any paramedic recertified within the two (2) years following the effective date of this Act shall successfully complete in-service training required by the Board of Medical Licensure by administrative regulation relating to determination of death and preservation of evidence. Any paramedic who does not successfully complete the required in-service training shall not be recertified.

(5) Any paramedic from another jurisdiction desiring to become a paramedic in Kentucky shall show evidence of

successful completion of a training course in Kentucky meeting the requirements of subsection (4) of this section, and certification as a paramedic shall be denied if the required evidence is not shown.

(6) The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person prior to the arrival of the paramedic by any person, for the purposes of this section and KRS 446.400, shall not be considered as artificial maintenance of respiration and circulation. The administration of advanced cardiac life support procedures by any person prior to the arrival of the paramedic shall preclude the determination of death by the paramedic, and the provisions of KRS 446.400 shall apply. However, nothing in this section shall preclude the supervising physician from directing the paramedic to cease resuscitative efforts under approved agency medical protocols.

(7) Defibrillation of the heart by the delivery of an electrical impulse to the heart by an automatic external defibrillator or other defibrillation device shall not be considered basic life support, and the use of a defibrillation device for defibrillation of the heart shall invoke the provisions of KRS 446.400. Monitoring of electrical activity in the heart through the use of a defibrillation device or other heart monitor without the delivery of an electrical impulse to defibrillate the heart shall not invoke the provisions of KRS 446.400.

SECTION 2. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) When it appears that a person whom a registered nurse has been called to attend is dead, the registered nurse shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead prior to resuscitation of the patient by the registered nurse or a paramedic or an emergency medical technician who has responded with or after the registered nurse. If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the registered nurse may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.

(2) In the event that a registered nurse determines that a person is dead, the registered nurse shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.

(3) Any registered nursing course taught after the effective date of this section shall include a course of instruction on the determination of death and preservation of evidence as required by the Board of Nursing by administrative regulation.

(4) Any registered nurse within the two (2) years following the effective date of this Act shall successfully complete in-service training required by the Board of Nursing by administrative regulation relating to determination of death and preservation of evidence. Any registered nurse who does not successfully complete the required in-service training shall not be relicensed.

(5) Any registered nurse from another jurisdiction desiring to become a registered nurse in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection (4) of this section, and licensed as a registered nurse shall be denied if the required evidence is not shown.

(6) The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person prior to the arrival of the registered nurse by any person, for the purposes of this section and KRS 446.400, shall not be considered as artificial maintenance of respiration and circulation. The administration of advanced cardiac life support procedures by any person prior to the arrival of the registered nurse shall preclude the determination of death by the registered nurse, and the provisions of KRS 446.400 shall apply. However, nothing in this section shall preclude the supervising physician from directing the registered nurse to cease resuscitative efforts under approved agency medical protocols.

(7) Defibrillation of the heart by the delivery of an electrical impulse to the heart by an automatic external defibrillator or other defibrillation device shall not be considered basic life support, and the use of a defibrillation device for defibrillation of the heart shall invoke the provisions of KRS 446.400. Monitoring of electrical activity in the heart through the use of a defibrillation device or other heart monitor without the delivery of an electrical impulse to defibrillate the heart shall not invoke the provisions of KRS 446.400.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

The State Board of Medical Licensure shall have sole jurisdiction regarding any complaint relating to the medical supervision of an ambulance service or ambulance service personnel against a physician performing in the role of medical director for an ambulance service for basic or advanced life support services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

The State Board of Nursing shall have sole jurisdiction regarding any complaint relating to the medical supervision of an ambulance service or ambulance service personnel against a registered nurse performing in the role of medical supervisor for an ambulance service for basic or advanced life support services.

Section 5. KRS 216B.410 is amended to read as follows:

(1) Each licensed ambulance provider and medical first response provider as defined in KRS 211.952(2) shall collect and provide to the cabinet run data and information required by the cabinet by administrative regulation.

(2) The cabinet shall develop a run report form for the use of each class of ambulance provider and medical first response provider containing the data required in subsection (1) of this section. An ambulance provider or medical first response provider may utilize any run form it chooses in lieu of or in addition to the cabinet-developed run report form. However, the data captured on the run report form shall include at least that required by the administrative regulations promulgated pursuant to subsection (1) of this section.

(3) An ambulance provider or medical first response provider may report the required run report data and information by sending copies of the completed run report forms to the cabinet or by transmitting the required data and information to the cabinet in an electronic format. If the cabinet requires the use of a specific electronic format it shall provide a copy of the file layout requirements, in either written or electronic format, to the licensed ambulance provider or medical first response provider at no charge.

(4) Each ambulance provider or medical first response provider shall submit its run reports or data summary reports in electronic format on the time schedule specified by the cabinet by administrative regulation.

(5) The cabinet shall publish a comprehensive annual report reflecting the data collected, injury and illness data, treatment utilized, and other information deemed important by the cabinet. The annual report shall not include patient identifying information or any other information identifying a natural person. A copy of the comprehensive annual report shall be forwarded by the cabinet to the Kentucky Board of Medical Licensure.

(6) Ambulance provider and medical first response provider run report forms and the information transmitted electronically to the cabinet shall be confidential. No person shall make an unauthorized release of information on an ambulance run report form or medical first response run report form. Only the patient or the patient's parent or legal guardian if the patient is a minor, or the patient's legal guardian or person with proper power of attorney if the patient is under legal disability as being incompetent or mentally ill, or a court of competent jurisdiction may authorize the release of information on a patient's run report form or the inspection or copying of the run report form. Any authorization for the release of information or for inspection or copying of a run report form shall be in writing.

(7) If a medical first response provider or ambulance provider does not use a paper form but collects patient data through electronic means, it shall have the means of providing a written run report that includes all required data elements to the medical care facility. A copy of the medical first response form or a summary of the run data and patient information shall be made available to the ambulance service that transports the patient. A copy of the ambulance run report form shall be made available to any medical care facility to which a patient is transported and shall be included in the patient's medical record by that facility. If a patient is not transported to a medical facility, the copy of the run report form that is to be given to the transporting ambulance provider or medical care facility shall be given to the patient or to the patient's parent or legal guardian. If the ambulance provider, medical facility, patient, or patient's legal guardian refuses delivery of their run report form or is unavailable to receive the form, that copy of the form shall be returned to the medical first response provider or ambulance provider and destroyed.

(8) All[~~ conforming~~] ambulance services[~~, but no nonconforming ambulance services,~~] shall be required to keep adequate reports and records to be maintained at the ambulance base headquarters, and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:

[~~(1) Two (2) copies of the Kentucky emergency medical service ambulance run report form, one (1) copy to be kept in the files of the ambulance services and one (1) copy to be submitted to the hospital to which the patient is transported and maintained in the hospital's files, or ambulance run report information compiled and disseminated by electronic means approved by the Cabinet for Human Resources;~~

~~(2)~~]*(a)* Employee records, including a resume of each employee's training and experience and evidence of current certification; and

(b)[~~(3)~~] Health records of all drivers and attendants including records of all illnesses or accidents occurring while on duty.

The Committee Amendment No. 1 to **HB 285** is as follows:

On page 4, by deleting lines 17 through 22 in their entirety and inserting in lieu thereof:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

The State Board of Nursing shall have sole jurisdiction regarding any complaint relating to the practice of a registered nurse practicing under the nurse's nursing license in the prehospital setting for an ambulance service providing basic or advanced life support services."

HB 561, AN ACT relating to the usage of tobacco by minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) No person under the age of eighteen (18) shall possess or use tobacco products.

(2) Violation of this section shall be punishable by:

(a) Twenty (20) hours of community service work for a first offense and forty (40) hours of community service work for a second or subsequent offense; or

(b) Revocation or suspension of his or her driver's license, permit, or privilege to operate a motor vehicle for a period of thirty (30) days for a first offense and an additional thirty (30) days for each subsequent offense. If the revocation or suspension would create a financial or educational hardship, the person found to be in violation may request a hearing before the District Court of appropriate venue to show cause as to the reasons that the driver's license should be reinstated. The custodial parent, legal guardian, or next friend of the person may request an ex parte hearing before the District Court;

(c) For a person under the age of eighteen (18) who is found to be in violation of this section and who has not yet received an instructional permit, imposition of a thirty (30) day waiting period for each violation, added from the date of the violation, prior to any eligibility for receiving an instructional permit; or

(d) In lieu of the penalties set forth in paragraphs (a) to (c) of this subsection, a local government may enact ordinances pertaining to penalties enforcing subsection (1) of this section.

(3) Any tobacco product found in the possession of a person under the age of eighteen (18) shall be confiscated by the law enforcement officer making the charge.

(4) Persons charged with violating this section shall not be charged District Court fees or court costs.

(5) When charged with a violation of this section, a person shall be informed that he or she is not required to have legal counsel.

(6) Any city, county, or other public prosecutor may enforce violations of this section by bringing action against those individuals charged. Any cases resulting from a violation of this section may be joined in one (1) petition or suit. Each violation joined in any one (1) action shall be included in a separate count to distinguish it from other violations within the same action. This means of enforcement shall not be the exclusive remedy available and shall be in addition to all other remedies available by law.

The Committee Substitute to **HB 561** is as follows:

AN ACT relating to the usage of tobacco by minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 438 IS CREATED TO READ AS FOLLOWS:

(1) No person under the age of eighteen (18) shall possess or use tobacco products.

(2) Any tobacco product found in the possession of a person under the age of eighteen (18) shall be confiscated by the law enforcement officer making the charge.

HB 603, AN ACT relating to nursing facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.785 is amended to read as follows:

As used in KRS 216.785 to 216.793, unless the context otherwise requires:

(1) "Crime" means a conviction of or a plea of guilty to a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime. Conviction of or a plea of guilty to an offense committed outside the Commonwealth of Kentucky is a crime if the offense would have been a felony in Kentucky if committed in Kentucky.

(2) "Direct service" means personal or group interaction between the employee and the *nursing facility resident or the* senior citizen.

(3) *"Nursing pool" means any person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in nursing facilities for medical personnel including, but not limited to, nurses, nursing assistants, nurses' aides, and orderlies.*

(4) "Senior citizen" means a person sixty (60) years of age or older.

Section 2. KRS 216.789 is amended to read as follows:

(1) No nursing facility ***or nursing pool providing staff to a nursing facility*** shall knowingly employ a person in a position which involves providing direct services to a nursing facility resident if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime.

(2) A ***nursing*** facility ***or nursing pool providing staff to a nursing facility*** may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor if the crime is not related to abuse, neglect, or exploitation of an adult.

(3) Each nursing facility ***or nursing pool providing staff to a nursing facility*** shall request all conviction information from the Justice Cabinet for any applicant for employment pursuant to KRS 216.793.

(4) The nursing facility ***or nursing pool providing staff to a nursing facility*** may temporarily employ an applicant pending the receipt of the conviction information.

Section 3. KRS 216.793 is amended to read as follows:

(1) Each application form provided by the employer to the applicant for initial employment in a nursing facility ***or nursing pool providing staff to a nursing facility*** or in a position funded by the Department for Social Services of the Cabinet for Human Resources and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form approved by the Justice Cabinet. The Justice Cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request and shall not exceed five dollars ($5) per application.

Section 4. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources appearing in this Act shall be codified as the Cabinet for Families and Children.

HB 652, AN ACT relating to elder abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.020 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Secretary" means the secretary of the Cabinet for Human Resources;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Department" means the Department for Social Services of the Cabinet for Human Resources;

(4) "Adult" means***:***

(a) A person eighteen (18) years of age or older~~[or a married person without regard to age]~~, who because of mental or physical dysfunctioning, ***is unable to manage his own resources or carry out the activities of daily living or protect himself from neglect, or a***~~[or who is the victim of abuse or neglect inflicted by a spouse, is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect,]~~ hazardous or abusive ***situation***~~[situations]~~ without assistance from others and ***who*** may be in need of protective services; ***or***

(b) A person without regard to age who is the victim of abuse or neglect inflicted by a spouse, or a person eighteen (18) years of age or older who is the victim of abuse or neglect inflicted by a cohabitating partner. "Cohabitating partner" means a person living with another in an intimate and marriage-like arrangement and sharing a common residence on an ongoing basis;

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected***,*** or exploited and to ensure that he obtains suitable care in or out of his home;

(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;

(7) "Abuse~~[or neglect]~~" means the infliction of physical pain, injury ***of an adult***~~[, or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or~~

~~welfare or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of his spouse]~~;

(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;

(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(11) "Emergency protective services" are protective services furnished an adult in an emergency;

(12) "Protective placement" means the transfer of an adult from his present living arrangement to another;~~[and]~~

(13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county*;*

(14) "Access to records" means that any representative of the Cabinet for Human Resources actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall be allowed access to the medical, mental, health, and financial records of the adult that are in the possession of any individual, hospital, firm, corporation or other facility, if necessary to complete the investigation mandated in this chapter; and

(15) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse or cohabitating partner of reasonable services to maintain health and welfare.

Section 2. KRS 209.030 is amended to read as follows:

(1) The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.

(2) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: The name and address of the adult, or of any other person responsible for his care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(4) Upon receipt of the report, the cabinet shall take the following action as soon as practical:

(a) Notify the appropriate law enforcement agency;

(b) Initiate an investigation of the complaint; and

(c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(5) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(6) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

(7) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(8) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.

(9) The cabinet shall promulgate administrative regulations that establish a uniform definition for "elder abuse", "neglect", "self-neglect", "exploitation", and "emergency".

(10) The cabinet shall promulgate administrative regulations that establish common definitions as they relate to all "elder abuse protection", "emergency intervention", "intervention", and "treatment programs".

Section 3. KRS 209.100 is amended to read as follows:

(1) If an adult lacks the capacity to consent to receive protective services in an emergency, these services may be ordered by a court on an emergency basis through an order pursuant to KRS 209.110, provided that:

(a) The adult is in a state of abuse***,***[~~or~~] neglect***, or exploitation*** and an emergency exists;

(b) The adult is in need of protective services;

(c) The adult lacks the capacity to consent or refuse to consent to such services; and

(d) No person authorized by law or court order to give consent for the adult is available to consent to emergency protective services or such person refuses to give consent.

(2) In ordering emergency protective services, the court shall authorize only that intervention which it finds to be the least restrictive of the individual's liberty and rights while consistent with his welfare and safety.

Section 4. KRS 209.120 is amended to read as follows:

(1) Upon petition by the cabinet a court may issue an order authorizing the provision of emergency protective services to an adult after a hearing and upon a finding based on a preponderance of the evidence that:

(a) The adult is in a state of abuse***,***[~~or~~] neglect***, or exploitation*** and is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(b) The adult is in need of protective services;

(c) The adult lacks the capacity to consent to such services; and

(d) No person authorized by law or court order to give consent for the adult is available to consent to protective services or such person refuses to give consent.

(2) In issuing an emergency order the court shall adhere to the following limitations:

(a) Only such protective services, including medical and surgical care and protective placement, as are necessary to remove the conditions creating the emergency shall be covered, and the court shall specifically designate the approved services in its order. Such designation of approved services shall be deemed to be the consent of the court authorizing the provision of such services.

(b) Protective services authorized by the court shall not include hospitalization or protective placement unless the court specifically finds such action is necessary and gives specific approval for such action in its order.

(c) The issuance of an emergency order shall not deprive the adult of any rights except to the extent validly provided for in the order.

(d) To implement an order, the court may authorize forcible entry of the premises of the adult for the purpose of rendering protective services or transporting the adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the cabinet.

(3) If the court finds, pursuant to a hearing, that the adult is in need of protective services, and should that adult have a guardian who has been derelict in providing for the welfare of the adult, the court shall have the discretion to remove the guardian and appoint another guardian, if an individual is available, willing, and able to function as guardian; such removal and appointment shall be in compliance with the provisions of KRS Chapter 387. It is not necessary for the court to find a guardian has been derelict as a requirement for the issuance of an order for protective services.

(4) If the court finds that protective services are no longer needed by the adult, the court shall order the emergency protective services to terminate.

Section 5. KRS 209.990 is amended to read as follows:

(1) Anyone knowingly and willfully violating the provisions of KRS 209.030(2) shall be guilty of a Class B misdemeanor as designated in KRS 532.090. Each violation shall constitute a separate offense.

(2) Any caretaker who knowingly and willfully abuses, neglects, or exploits an adult within the meaning of this chapter, and in so doing causes serious physical or mental injury or permanent disability to such an adult, is guilty of a Class C felony, or if such abuse, neglect, or exploitation causes minor physical or mental injury or temporary disability to the adult, the caretaker is guilty of a Class A misdemeanor.

(3) Any person who knowingly and willfully financially exploits an adult within the meaning of this chapter is guilty of a Class C felony.

SECTION 6. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall develop a protocol which provides for the prevention and intervention of elder abuse and neglect, which shall outline the levels of need and identify those state agencies capable of intervening at each level.

(1) The Cabinet for Human Resources shall create a comprehensive resource directory of services for the elderly, particularly services to prevent and intervene in elder abuse, neglect, and exploitation.

(2) The Cabinet for Human Resources shall create a public awareness program of elder abuse.

(3) The Cabinet for Human Resources shall develop specific guidelines for the provision of general adult services, including uniform criteria for adult intake and service provision.

Section 7. KRS 311.625 is amended to read as follows:

(1) A living will directive made pursuant to KRS 311.623 shall be substantially in the following form, and may include other specific directions which are in accordance with accepted medical practice and not specifically prohibited by any other statute. If any other specific directions are held by a court of appropriate jurisdiction to be invalid, that invalidity shall not affect the directive.

"Living Will Directive

My wishes regarding life-prolonging treatment and artificially provided nutrition and hydration to be provided to me if I no longer have decisional capacity, have a terminal condition, or become permanently unconscious have been indicated by checking and initialing the appropriate lines below. By checking and initialing the appropriate lines, I specifically:

.... Designate .... as my health care surrogate(s) to make health care decisions for me in accordance with this directive when I no longer have decisional capacity. If .... refuses or is not able to act for me, I designate .... as my health care surrogate(s).

Any prior designation is revoked.

If I do not designate a surrogate, the following are my directions to my attending physician. If I have designated a surrogate, my surrogate shall comply with my wishes as indicated below:

.... Direct that treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain.

.... DO NOT authorize that life-prolonging treatment be withheld or withdrawn.

.... Authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... DO NOT authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... Authorize my surrogate, designated above, to withhold or withdraw artificially provided nourishment or fluids, or other treatment if the surrogate determines that withholding or withdrawing is in my best interest; but I do not mandate that withholding or withdrawing.

In the absence of my ability to give directions regarding the use of life-prolonging treatment and artificially provided nutrition and hydration, it is my intention that this directive shall be honored by my attending physician, my family, and any surrogate designated pursuant to this directive as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of the refusal.

If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.

I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

Signed this .... day of ...., 19...

Signature and address of the grantor.

In our joint presence, the grantor, who is of sound mind and eighteen (18) years of age, or older, voluntarily dated and signed this writing or directed it to be dated and signed for the grantor.

Signature and address of witness.
Signature and address of witness.

OR

STATE OF KENTUCKY)
...........County)

Before me, the undersigned authority, came the grantor who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be signed and dated as above.

Done this .... day of ...., 19...

Signature of Notary Public or other officer.

Date commission expires:............

Execution of this document restricts withholding and withdrawing of some medical procedures. Consult Kentucky Revised Statutes or your attorney."

(2) An ***advance***[~~advanced~~] directive shall be in writing, dated, and signed by the grantor, or at the grantor's direction, and either witnessed by two (2) or more adults in the presence of the grantor and in the presence of each other, or acknowledged before a notary public or other person authorized to administer oaths. None of the following shall be a witness to ***or serve as a notary public or other person authorized to administer oaths in regard to*** any advance directive made under this section:

(a) A blood relative of the grantor;

(b) A beneficiary of the grantor under descent and distribution statutes of the Commonwealth;

(c) An employee of a health care facility in which the grantor is a patient, unless the employee serves as a notary public;

(d) An attending physician of the grantor; or

(e) Any person directly financially responsible for the grantor's health care.

(3) A person designated as a surrogate pursuant to an advance directive may resign at any time by giving written notice to the grantor; to the immediate successor surrogate, if any; to the attending physician; and to any health care facility which is then waiting for the surrogate to make a health care decision.

(4) An employee, owner, director, or officer of a health care facility where the grantor is a resident or patient shall not be designated or act as surrogate unless related to the grantor within the fourth degree of consanguinity or affinity or a member of the same religious order.

The Committee Substitute to **HB 652** is as follows:

AN ACT relating to elder abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.020 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Secretary" means the secretary of the Cabinet for Human Resources;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Department" means the Department for Social Services of the Cabinet for Human Resources;

(4) "Adult" means***:***

(a) A person eighteen (18) years of age or older[~~ or a married person without regard to age~~], who because of mental or physical dysfunctioning,[~~ or who is the victim of abuse or neglect inflicted by a spouse,~~] is unable to manage his own resources ***or***[~~,~~] carry out the ***activity***[~~activities~~] of daily living[~~,~~] or protect himself from neglect, ***or a*** hazardous or abusive ***situation***[~~situations~~] without assistance from others***,*** and ***who*** may be in need of protective services; ***or***

(b) A person without regard to age who is the victim of abuse and neglect inflicted by a spouse;

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected***,*** or exploited and to ensure that he obtains suitable care in or out of his home;

(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;

(7) "Abuse[~~ or neglect~~]" means the infliction of physical pain, ***mental injury, or*** injury ***of an adult***[~~, or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of his spouse~~];

(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;

(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(11) "Emergency protective services" are protective services furnished an adult in an emergency;

(12) "Protective placement" means the transfer of an adult from his present living arrangement to another;~~[and]~~

(13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county***;***

(14) "Access to records" means that any representative of the Cabinet for Human Resources actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall be allowed access to the medical, mental, health, and financial records of the adult that are in the possession of any individual, hospital, firm, corporation or other facility, if necessary to complete the investigation mandated in this chapter; and

(15) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse of reasonable services to maintain health and welfare.

Section 2. KRS 209.030 is amended to read as follows:

(1) The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.

(2) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: The name and address of the adult, or of any other person responsible for his care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(4) Upon receipt of the report, the cabinet shall take the following action as soon as practical:
  (a) Notify the appropriate law enforcement agency;
  (b) Initiate an investigation of the complaint; and
  (c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(5) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(6) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

(7) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(8) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.

Section 3. KRS 209.100 is amended to read as follows:

(1) If an adult lacks the capacity to consent to receive protective services in an emergency, these services may be ordered by a court on an emergency basis through an order pursuant to KRS 209.110, provided that:

(a) The adult is in a state of abuse or neglect and an emergency exists;

(b) The adult is in need of protective services;

(c) The adult lacks the capacity to consent ***and***[~~or~~] ***refuses***[~~refuse~~] to consent to such services; and

(d) No person authorized by law or court order to give consent for the adult is available to consent to emergency protective services or such person refuses to give consent.

(2) In ordering emergency protective services, the court shall authorize only that intervention which it finds to be the least restrictive of the individual's liberty and rights while consistent with his welfare and safety.

Section 4. KRS 209.120 is amended to read as follows:

(1) Upon petition by the cabinet a court may issue an order authorizing the provision of emergency protective services to an adult after a hearing and upon a finding based on a preponderance of the evidence that:

(a) The adult is in a state of abuse***,***[~~ or~~] neglect***, or exploitation*** and is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(b) The adult is in need of protective services;

(c) The adult lacks the capacity to consent to such services; and

(d) No person authorized by law or court order to give consent for the adult is available to consent to protective services or such person refuses to give consent.

(2) In issuing an emergency order the court shall adhere to the following limitations:

(a) Only such protective services, including medical and surgical care and protective placement, as are necessary to remove the conditions creating the emergency shall be covered, and the court shall specifically designate the approved services in its order. Such designation of approved services shall be deemed to be the consent of the court authorizing the provision of such services.

(b) Protective services authorized by the court shall not include hospitalization or protective placement unless the court specifically finds such action is necessary and gives specific approval for such action in its order.

(c) The issuance of an emergency order shall not deprive the adult of any rights except to the extent validly provided for in the order.

(d) To implement an order, the court may authorize forcible entry of the premises of the adult for the purpose of rendering protective services or transporting the adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the cabinet.

(3) If the court finds, pursuant to a hearing, that the adult is in need of protective services, and should that adult have a guardian who has been derelict in providing for the welfare of the adult, the court shall have the discretion to remove the guardian and appoint another guardian, if an individual is available, willing, and able to function as guardian; such removal and appointment shall be in compliance with the provisions of KRS Chapter 387. It is not necessary for the court to find a guardian has been derelict as a requirement for the issuance of an order for protective services.

(4) If the court finds that protective services are no longer needed by the adult, the court shall order the emergency protective services to terminate.

Section 5. KRS 209.990 is amended to read as follows:

(1) Anyone knowingly and willfully violating the provisions of KRS 209.030(2) shall be guilty of a Class B misdemeanor as designated in KRS 532.090. Each violation shall constitute a separate offense.

(2) Any caretaker who knowingly and willfully abuses, neglects, or exploits an adult within the meaning of this chapter, and in so doing causes serious physical or mental injury or permanent disability to such an adult, is guilty of a Class C felony, or if such abuse, neglect, or exploitation causes minor physical or mental injury or temporary disability to the adult, the caretaker is guilty of a Class A misdemeanor.

(3) Any person who knowingly and willfully financially exploits an adult within the meaning of this chapter is guilty of a Class C felony.

SECTION 6. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Human Resources shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various state agency representatives from the following list:

(a) The Department for Social Services;

(b) The Department for Social Insurance;

(c) The Department for Public Health;

(d) The Department for Mental Health and Mental Retardation;

(e) The Division of Aging;

(f) The Division of Licensing and Regulation;

(g) The Office of the Ombudsman; and

(h) Area Agencies on Aging.

(2) The committee shall address issues of prevention, intervention, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including, but not limited to:

(a) Senior citizen centers;

(b) Local governmental human service groups;

(c) The Sanders-Brown Center on Aging at the University of Kentucky;

(d) Long Term Care Ombudsmen; and

(e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.

(3) The committee shall:

(a) Explore the need for a comprehensive statewide resource directory of services for the elderly;

(b) Enhance existing public awareness campaigns for elder abuse and neglect; and

(c) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.

(4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.

SECTION 7. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations for the provision of general adult services to include uniform criteria for adult intake and appropriate and necessary service provision.

Section 8. KRS 311.625 is amended to read as follows:

(1) A living will directive made pursuant to KRS 311.623 shall be substantially in the following form, and may include other specific directions which are in accordance with accepted medical practice and not specifically prohibited by any other statute. If any other specific directions are held by a court of appropriate jurisdiction to be invalid, that invalidity shall not affect the directive.

"Living Will Directive

My wishes regarding life-prolonging treatment and artificially provided nutrition and hydration to be provided to me if I no longer have decisional capacity, have a terminal condition, or become permanently unconscious have been indicated by checking and initialing the appropriate lines below. By checking and initialing the appropriate lines, I specifically:

.... Designate .... as my health care surrogate(s) to make health care decisions for me in accordance with this directive when I no longer have decisional capacity. If .... refuses or is not able to act for me, I designate .... as my health care surrogate(s).

Any prior designation is revoked.

If I do not designate a surrogate, the following are my directions to my attending physician. If I have designated a surrogate, my surrogate shall comply with my wishes as indicated below:

.... Direct that treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain.

.... DO NOT authorize that life-prolonging treatment be withheld or withdrawn.

.... Authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... DO NOT authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... Authorize my surrogate, designated above, to withhold or withdraw artificially provided nourishment or fluids, or other treatment if the surrogate determines that withholding or withdrawing is in my best interest; but I do not mandate that withholding or withdrawing.

In the absence of my ability to give directions regarding the use of life-prolonging treatment and artificially provided nutrition and hydration, it is my intention that this directive shall be honored by my attending physician, my family, and any surrogate designated pursuant to this directive as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of the refusal.

If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.

I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

Signed this .... day of ...., 19...

Signature and address of the grantor.

In our joint presence, the grantor, who is of sound mind and eighteen (18) years of age, or older, voluntarily dated and signed this writing or directed it to be dated and signed for the grantor.

Signature and address of witness.

Signature and address of witness.

OR

STATE OF KENTUCKY)

...........County)

Before me, the undersigned authority, came the grantor who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be signed and dated as above.

Done this .... day of ...., 19...

Signature of Notary Public or other officer.

Date commission expires:.............

Execution of this document restricts withholding and withdrawing of some medical procedures. Consult Kentucky Revised Statutes or your attorney."

(2) An ***advance***[~~advanced~~] directive shall be in writing, dated, and signed by the grantor, or at the grantor's direction, and either witnessed by two (2) or more adults in the presence of the grantor and in the presence of each other, or acknowledged before a notary public or other person authorized to administer oaths. None of the following shall be a witness to ***or serve as a notary public or other person authorized to administer oaths in regard to*** any advance directive made under this section:

- (a) A blood relative of the grantor;
- (b) A beneficiary of the grantor under descent and distribution statutes of the Commonwealth;
- (c) An employee of a health care facility in which the grantor is a patient, unless the employee serves as a notary public;
- (d) An attending physician of the grantor; or
- (e) Any person directly financially responsible for the grantor's health care.

(3) A person designated as a surrogate pursuant to an advance directive may resign at any time by giving written notice to the grantor; to the immediate successor surrogate, if any; to the attending physician; and to any health care facility which is then waiting for the surrogate to make a health care decision.

(4) An employee, owner, director, or officer of a health care facility where the grantor is a resident or patient shall not be designated or act as surrogate unless related to the grantor within the fourth degree of consanguinity or affinity or a member of the same religious order.

HB 756, AN ACT relating to child care assistance account.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.531 is amended to read as follows:

(1) The cost of operators' licenses and permits shall be as follows:

- (a) The fee for a four (4) year original or renewal motor vehicle license shall be eight dollars ($8);
- (b) The fee for a four (4) year original or renewal motorcycle operator's license shall be twelve dollars ($12) and a combination motor vehicle-motorcycle operator's license shall be eighteen dollars ($18);
- (c) The fee for an instruction permit for a motor vehicle shall be two dollars ($2) plus four dollars ($4) for preparing and acknowledging the application;
- (d) The fee for an instruction permit for a motorcycle shall be five dollars ($5) plus one dollar ($1) for preparing and acknowledging the application;

(e) The fee for a duplicate license shall be six dollars ($6);

(f) The fee for an identification card shall be four dollars ($4). The fee for a duplicate identification card shall be two dollars ($2); and

(g) Any applicant under the age of twenty-one (21) who meets the requirements for the issuance of a valid driver's license shall be issued a license valid until the date the applicant attains the age of twenty-one (21). The fee for the license shall be two dollars ($2) per year for the requisite number of years as set forth herein. The applicant shall have thirty (30) days after his twenty-first birthday in which to renew his driver's license.

(2) Except as provided in subsection (3) of this section, the circuit clerk shall deposit in the State Treasury to the credit of the general fund except as provided in paragraph (f) and paragraph (g) of this subsection fees pertaining to applications and license fees in the following manner:

(a) One dollar and seventy-five cents ($1.75) of any original and renewal license, except that the fee for a combination motor vehicle-motorcycle operator's license shall be three dollars ($3);

(b) One dollar ($1) for issuance of any instruction permit;

(c) One dollar ($1) for preparing and acknowledging an application for an instruction permit;

(d) One dollar and twenty-five cents ($1.25) for preparing and acknowledging an application for a duplicate;

(e) One dollar and twenty-five cents ($1.25) for each identification card;

(f) For each original or renewal license one dollar ($1) shall be credited to a special account within the state road fund and shall be used by the Transportation Cabinet exclusively for the purpose of issuing a photo license. For each original or renewal motorcycle operator's license and each motorcycle instruction permit, four dollars ($4) shall be credited to a special account within the state road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to KRS 186.890; and

(g) An applicant for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license shall have the opportunity to make a donation of one dollar ($1) to promote an organ donor program. The one dollar ($1) donation shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license. One (1) donation may be made per issuance or renewal of a license or any combination thereof. The fee shall be paid to the circuit clerk and shall be retained by the clerk to be used exclusively for the purpose of promoting an organ donor program. Organ donation shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license.

(h) An applicant for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license shall have the opportunity to make a donation of one dollar ($1) to the child care assistance account. The one dollar ($1) donation shall be added to the regular fee for an original or renewal motor vehicle operator's license, commercial driver's license, or motorcycle operator's license. One (1) donation may be made per issuance or renewal of a license or any combination thereof. The fee shall be paid to the circuit clerk. Donation to the child care assistance fund shall be voluntary and may be refused by the applicant at the time of the issuance or renewal of a license.

(i) Fees collected for the child care assistance account under subparagraph (h) of this section shall be deposited into a trust and agency account in the State Treasury to the credit of the Cabinet for Human Resources for the exclusive use as follows:

1. Funds shall be made available to the agencies that administer child care subsidy funds;

2. Funds shall be used for working parents whose income is between one hundred thirty-three percent (133%) and one hundred fifty percent (150%) of the poverty level.

(3) The following fees shall be deposited in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses:

(a) One dollar ($1) for issuing of an instruction permit;

(b) Three dollars ($3) for preparing and acknowledging an application for an instruction permit;

(c) Four dollars ($4) for preparing and acknowledging an application for a duplicate license;

(d) Ten dollars ($10) for preparing and acknowledging an application for a reinstatement fee; and

(e) These fees shall be in addition to other funds provided to the circuit clerk through the regular appropriation made by the General Assembly to the Administrative Office of the Courts.

(4) The remainder of all fees, and other moneys collected by the circuit clerk shall be forwarded to the state.

Section 2. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the

Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources in subsection (2)(i) of Section 1 shall be changed to the Cabinet for Families and Children.

HB 785, AN ACT relating to the medical assistance program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.640 is amended to read as follows:

(1) For purposes of this section, "hospital" includes all hospitals licensed in this state to provide acute care, psychiatric care, and rehabilitative services.

(2) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(3) The "Medical Assistance Revolving Trust Fund (MART)" shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury to the credit of the fund. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(4) The "Medical Assistance Indigent Trust Fund (MAIT)" shall be established in the State Treasury for the purpose of receiving any funds transferred from the MART fund or from federal funds for the operation of the disproportionate share program established by the commissioner of Medicaid services in accordance with the provisions of subsection (2) of this section. All investment earnings of the fund shall be credited to the fund. Notwithstanding the provisions of KRS 48.500 and 48.600, the MAIT fund shall be exempt from any state budget reduction acts.

(5) An amount, necessary to result in a total fund of ***ninety-three***[~~eighty one~~] million dollars ***($93,000,000)***[~~ ($81,000,000)~~] for fiscal year ***1998-99***[~~1995~~], and ***ninety-four***[~~eighty six~~] million[~~ five hundred thousand~~] dollars ***($94,000,000)***[~~($86,500,000)~~] for fiscal year ***1999-2000***[~~1996~~] including provider tax revenues and federal matching funds, to the extent possible, shall be transferred from the MART fund or from federal funds to the MAIT fund for the purpose of funding the disproportionate share program established by the commissioner of Medicaid services.

(a) The sum of one million dollars ($1,000,000) in fiscal year ***1998-99***[~~1995~~], and one and one-half million dollars ($1,500,000) in fiscal year ***1999-2000***[~~1996~~], taken entirely from provider tax revenues, transferred to the MAIT fund, shall be used to compensate hospitals that do not qualify for the disproportionate share program for services provided by the hospitals to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred ***fifty*** percent ***(150%)***[~~(100%)~~] of the federal poverty level[~~ except nonemergency care rendered through a hospital emergency room,~~] as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Human Resources.

(b) The amount remaining in the MAIT fund shall be used to compensate hospitals qualifying for the disproportionate share program for ***inpatient and outpatient*** service provided by the hospitals to Medicaid recipients beyond the covered days and individuals and families with total annual incomes and resources up to one hundred ***fifty*** percent ***(150%)***[~~(100%)~~] of the federal poverty level,[~~ except nonemergency care rendered through a hospital emergency room,~~] as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Human Resources in accordance with this section.

(c) [~~No~~]Individual ***hospitals***[~~hospital~~] shall receive distributions from the MAIT fund ***for***[~~that exceed~~] indigent[~~ inpatient~~] care provided by the hospital that meet the guidelines established in paragraphs (a) and (b) of this subsection and documented to the Department for Medicaid Services, as reimbursed at the hospital's Medicaid rate.

(d) Distributions to hospitals from the MAIT fund shall be made on a quarterly basis. One fourth (1/4) of each share established pursuant to paragraphs (a) and (b) of this subsection shall be the maximum amount available for distribution at the close of each quarter. The amount of distributions to each hospital shall be determined as follows:

1. Hospitals shall report care provided to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred ***fifty*** percent ***(150%)***[~~(100%)~~] of the federal poverty including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital[~~, and except nonemergency care rendered through a hospital emergency room, level~~] to the Cabinet for Human Resources on a quarterly basis. The first report shall be due on or before October 20, 1994, and shall document care provided for the quarter beginning July 1, and ending September 30. Subsequent reports shall be due on or before January 20, April 20, July 20 and October 20 of each year thereafter.

2. Within sixty (60) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Human Resources, Department for Medicaid Services shall review all reports filed and shall determine the maximum compensation authorized for each hospital filing reports, with payment for documented qualifying services provided at the ~~[lesser of each]~~hospital's ***Medicaid***~~[individual per diem]~~ rate~~[or the weighted median per diem for hospitals in each peer group,]~~ as established annually by the Department of Medicaid Services.

3. Within ninety (90) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Human Resources, Department for Medicaid Services shall remit to each hospital the amount determined to be due pursuant to the provisions of subparagraph 2. of this paragraph. If the total amount due all hospitals entitled to compensation in any quarter exceeds the funds available in any quarter, the distribution received by each hospital shall be proportionately reduced. If the total amount due all hospitals entitled to compensation in any quarter is less than the funds available for distribution in that quarter, the excess funds may be carried forward to satisfy future claims.

(e) For purposes of this section, a hospital's Medicaid rate means the cost of providing indigent care services as calculated by the department by applying each hospital's cost-to-charge ratio to allowable indigent charges. By July 1 of each year, the Department for Medicaid Services shall calculate the cost-to-charge ratio for each hospital by dividing the hospital's total allowable operating expenses by the hospital's total gross patient charges.

(6) ~~[Except for nonemergency care rendered through a hospital emergency room,]~~Hospitals receiving reimbursement from the MAIT fund shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred ***fifty*** percent ***(150%)***~~[(100%)]~~ of the federal poverty level.

(7) The secretary of the Cabinet for Human Resources shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(8) All hospitals receiving reimbursement from the MAIT fund shall:

(a) Display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay.";

(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and 18A.2281;

(c) Provide to Medicaid recipients any additional days of coverage per hospital stay, based on medical necessity determined in the usual manner, without responsibility for payment for such days of care accruing to the patient or the Medicaid program; and

(d) Collect and report to the department data on the number of indigent patient days provided pursuant to this section, including additional days of coverage for Medicaid recipients. The cabinet shall annually, no later than July 1, compile a report for the Governor and the Legislative Research Commission on the implementation of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) (a) A county-owned or county-operated hospital shall receive an enhanced Medicaid payment in an amount, calculated from the most recent cost report filed by that hospital with the department as of April 1 of each year, equal to the difference between the amount of total payments made to the hospital by the department or a managed care entity for covered services provided to Medicaid beneficiaries, including services attributable to recipients in Medicaid managed care programs, during the state fiscal year and the hospital's cost for the services determined by the department under Medicare payment principles. Reimbursement under this section shall be made in a single payment. From April 1 through June 1 of each year, the Department for Medicaid Services shall calculate the payment due to be made to each county-owned or county-operated hospital and shall make the payment to each hospital no later than June 30 of each state fiscal year. The department shall make an enhanced payment to each county owned or county-operated hospital in state fiscal year 1998 using cost reports filed with the department on or before April 1, 1998, for the hospitals' latest fiscal year.

(b) A payment described in this section is not due to a county-owned or county-operated hospital unless an intergovernmental transfer is made. A county-owned or county-operated hospital may make an intergovernmental transfer or an intergovernmental transfer made be made on behalf of the hospital by any lending institution or budget unit of a county governmental agency.

(c) An intergovernmental transfer shall be made to the enhanced Medicaid payment fund by June 2 of each state fiscal year in an amount equal to eighty-five percent (85%) of the amount determined under paragraph (a) of this subsection, and shall be matched with federal funds.

(d) An enhanced Medicaid payment shall be made to each county-owned or county-operated hospital participating in the intergovernmental transfer program in an amount equal to one hundred percent (100%) of the hospital's Medicaid shortfall as determined under paragraph (a) of this subsection.

(e) The department shall determine the Medicaid shortfall for all other hospitals that are not county-owned or county-operated or are not state-university-owned or state-university-operated hospitals, which shall be equal to the difference between total payments made by the department or a managed care entity for covered services provided to Medicaid beneficiaries, including those enrolled in managed care, during the state fiscal year and the hospital's costs for the services as determined by the department under Medicare payment principles. Funds remaining from the enhanced Medicaid program shall be distributed to each hospital which is not county-owned or county-operated or is not state-university-owned or state-university-operated on a pro rata basis. If funds remain in the enhanced Medicaid payment fund after making enhanced Medicaid payments required by this subsection, the remaining funds shall be available for use by the department for funding the regular Medicaid program.

(2) The Cabinet for Human Resources shall promulgate administrative regulations to implement the provisions of this section.

The Committee Substitute to **HB 785** is as follows:

AN ACT relating to the medical assistance program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.640 is amended to read as follows:

(1) For purposes of this section, "hospital" includes all hospitals licensed in this state to provide acute care, psychiatric care, and rehabilitative services.

(2) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(3) The "Medical Assistance Revolving Trust Fund (MART)" shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury to the credit of the fund. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(4) The "Medical Assistance Indigent Trust Fund (MAIT)" shall be established in the State Treasury for the purpose of receiving any funds transferred from the MART fund or from federal funds for the operation of the disproportionate share program established by the commissioner of Medicaid services in accordance with the provisions of subsection (2) of this section. All investment earnings of the fund shall be credited to the fund. Notwithstanding the provisions of KRS 48.500 and 48.600, the MAIT fund shall be exempt from any state budget reduction acts.

(5) An amount, necessary to result in a total fund of ***ninety-three***[~~eighty one~~] million dollars ***($93,000,000)***[~~ ($81,000,000)~~] for fiscal year ***1998-99***[~~1995~~], and ***ninety-four***[~~eighty six~~] million[~~ five hundred thousand~~] dollars ***($94,000,000)***[~~($86,500,000)~~] for fiscal year ***1999-2000***[~~1996~~] including provider tax revenues and federal matching funds, to the extent possible ***without exceeding Kentucky's federal disproportionate share hospital cap***, shall be transferred from the MART fund or from federal funds to the MAIT fund for the purpose of funding the disproportionate share program established by the commissioner of Medicaid services.

(a)[~~ The sum of one million dollars ($1,000,000) in fiscal year 1995, and one and one-half million dollars ($1,500,000) in fiscal year 1996, taken entirely from provider tax revenues, transferred to the MAIT fund, shall be used to compensate hospitals that do not qualify for the disproportionate share program for services provided by the hospitals to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Human Resources.~~

~~(b)~~] The[~~ amount remaining in the~~] MAIT fund shall be used to compensate hospitals qualifying for the disproportionate share program for service provided by the hospitals to Medicaid recipients beyond the covered days and individuals and families with total annual incomes and resources up to one hundred ***fifty*** percent ***(150%)***[~~(100%)~~] of the federal poverty level,[~~ except nonemergency care rendered through a hospital emergency room,~~] as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Human Resources in accordance with this section.

(b)[~~(c)~~]***An***[~~No~~] individual hospital shall receive distributions from the MAIT fund ***for***[~~that exceed~~] indigent[~~ inpatient~~] care provided by ***that***[~~the~~] hospital ***if the care meets***[~~that meet~~] the guidelines established in paragraphs (a) and (b) of this subsection and ***is*** documented to the Department for Medicaid Services, as reimbursed at the hospital's

Medicaid rate***; provided, however, that the Medicaid rate shall not exceed the Medicare upper limit***.

(c)[~~(d)~~]Distributions to hospitals from the MAIT fund shall be made on a quarterly basis. One fourth (1/4) of each share established pursuant to paragraphs (a) and (b) of this subsection shall be the maximum amount available for distribution at the close of each quarter. The amount of distributions to each hospital shall be determined as follows:

1. Hospitals shall report care provided to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred ***fifty*** percent ***(150%)***[~~(100%)~~] of the federal poverty including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital[~~, and except nonemergency care rendered through a hospital emergency room, level~~] to the Cabinet for Human Resources on a quarterly basis. The first report shall be due on or before October 20, 1994, and shall document care provided for the quarter beginning July 1, and ending September 30. Subsequent reports shall be due on or before January 20, April 20, July 20 and October 20 of each year thereafter.
2. Within sixty (60) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Human Resources, Department for Medicaid Services shall review all reports filed and shall determine the maximum compensation authorized for each hospital filing reports, with payment for documented qualifying services provided at the [~~lesser of each~~]hospital's ***Medicaid***[~~individual per diem~~] rate[~~ or the weighted median per diem for hospitals in each peer group,~~] as established annually by the Department of Medicaid Services.
3. Within ninety (90) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Human Resources, Department for Medicaid Services shall remit to each hospital the amount determined to be due pursuant to the provisions of subparagraph 2. of this paragraph. If the total amount due all hospitals entitled to compensation in any quarter exceeds the funds available in any quarter, the distribution received by each hospital shall be proportionately reduced. If the total amount due all hospitals entitled to compensation in any quarter is less than the funds available for distribution in that quarter, the excess funds may be carried forward to satisfy future claims.

(d) For purposes of this section, a hospital's Medicaid rate means the cost of providing indigent care services as calculated by the department by applying each hospital's cost-to-charge ratio to allowable indigent charges. By July 1 of each year, the Department for Medicaid Services shall calculate the cost-to-charge ratio for each hospital by dividing the hospital's total allowable operating expenses by the hospital's total gross patient charges.

(6) [~~Except for nonemergency care rendered through a hospital emergency room,~~]Hospitals receiving reimbursement from the MAIT fund shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred ***fifty*** percent ***(150%)***[~~(100%)~~] of the federal poverty level.

(7) The secretary of the Cabinet for Human Resources shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(8) All hospitals receiving reimbursement from the MAIT fund shall:

(a) Display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay.";

(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and 18A.2281;

(c) Provide to Medicaid recipients any additional days of coverage per hospital stay, based on medical necessity determined in the usual manner, without responsibility for payment for such days of care accruing to the patient or the Medicaid program; and

(d) Collect and report to the department data on the number of indigent patient days provided pursuant to this section, including additional days of coverage for Medicaid recipients. The cabinet shall annually, no later than July 1, compile a report for the Governor and the Legislative Research Commission on the implementation of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) (a) A county-owned or -operated hospital shall receive an enhanced Medicaid payment in an amount, calculated from the most recent cost report filed by that hospital with the department as of June 30 of each year, equal to the difference between the amount of total payments made to the hospital by the department or a managed care entity for covered services provided to Medicaid beneficiaries, including services attributable to recipients in Medicaid managed care programs, during the state fiscal year and the hospital's cost for the services determined by the department under Medicare payment principles. Reimbursement under this section shall be made in a single payment. From July 1 through August 1 of each year, the Department for Medicaid Services shall calculate the payment due to be made to each county-owned or -operated hospital

and shall make the payment to each hospital no later than August 15 of each state fiscal year. The department shall make an enhanced payment to each county owned or -operated hospital in state fiscal year 1998 using cost reports filed with the department on or before June 30, 1998, for the hospitals' latest fiscal year.

(b) A payment described in this section is not due to a county-owned or -operated hospital unless an intergovernmental transfer is made. A county-owned or -operated hospital may make an intergovernmental transfer, or an intergovernmental transfer may be made on behalf of the hospital by a county, budget unit of a county governmental agency, or lending institution if it is not prohibited by state or federal law.

(c) An intergovernmental transfer shall be made to the enhanced Medicaid payment fund by August 2 of each state fiscal year in an amount equal to eighty percent (80%) of the amount determined under paragraph (a) of this subsection, and shall be matched with federal funds.

(d) An enhanced Medicaid payment shall be made to each county-owned or -operated hospital participating in the intergovernmental transfer program in an amount equal to one hundred percent (100%) of the hospital's Medicaid shortfall as determined under paragraph (a) of this subsection.

(e) The department shall determine the Medicaid shortfall for all other hospitals that are not county-owned or -operated or are not state-university-owned or -operated hospitals, which shall be equal to the difference between total payments made by the department or a managed care entity for covered services provided to Medicaid beneficiaries, including those enrolled in managed care, during the state fiscal year and the hospital's costs for the services as determined by the department under Medicare payment principles. Funds remaining from the enhanced Medicaid program shall be distributed to each hospital which is not county-owned or -operated or is not state-university-owned or -operated on a pro rata basis. If funds remain in the enhanced Medicaid payment fund after making enhanced Medicaid payments required by this subsection, the remaining funds shall be available for use by the department for funding the regular Medicaid program.

(2) The Cabinet for Human Resources shall promulgate administrative regulations to implement the provisions of this section.

The Committee Amendment No. 1 to **HB 785** is as follows:

On page 4, line 8, after "shall", by inserting the following, "*first*"; and

On page 4, line 9, after "reduced", by inserting the following, "*for all hospitals with over two hundred (200) beds. If the total amount still exceeds funds available, then hospitals with fewer than two hundred (200) beds shall be proportionately reduced.*".

HCR 103, A CONCURRENT RESOLUTION to direct the Legislative Research Commission to create the Task Force on Sibling Sexual Abuse.

WHEREAS, national data show fully 12 percent of all perpetrators of child abuse cases substantiated by law enforcement officials are "other family members," most often siblings; and

WHEREAS, the emotional needs of children sexually abused by siblings are complex and unique; and

WHEREAS, providing the appropriate level of care, treatment, and services to address these needs is not only in the best interest of these children, but is also in the best interest of their families, their communities, and the Commonwealth; and

WHEREAS, the range of treatment options and resources available to adequately and fully address the needs of these children and the funding sources available to pay for the type of care needed are not known; and

WHEREAS, the General Assembly reaffirms that the commitment to the well-being of children of the Commonwealth should not waiver; and

WHEREAS, the General Assembly acknowledges that addressing treatment needs in the appropriate manner can halt the proliferation of sibling sexual abuse and the long-term consequences of sibling child sexual abuse, including depression, suicide, repeat abuse, and delinquent behaviors; and

WHEREAS, the General Assembly is vested with both the authority and the responsibility to address these issues and to ensure that the initiatives to address these issues utilize resources wisely and enhance the services to citizens of the Commonwealth; and

WHEREAS, there is little systematically collected, reliable data available concerning these children, their needs, the effectiveness of treatment, and the evaluation of the success of treatment; and

WHEREAS, to fully understand the scope of the problem and to develop solutions, it is critical to audit the data available concerning sexually abused child siblings, their needs, the services and treatment goals and objectives, and the criteria for determining which children access which service; and

WHEREAS, a collaborative task force approach when led by the General Assembly can lead to a comprehensive analysis of the problem, exhaustive search for solutions, and development of recommendations for action;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission shall create the Task Force on Sibling Sexual Abuse to conduct a comprehensive study to:

(1) Determine the prevalence of sibling-perpetrated child sexual abuse in Kentucky;

(2) Determine the causes of sibling-perpetrated child sexual abuse, including factors contributing to the perpetrating of abuse and factors contributing to the risk of experiencing abuse;

(3) Develop a profile of the children at risk and the perpetrators of sibling sexual abuse;

(4) Develop a complete baseline of information concerning the ability of relevant law enforcement, social service, and treatment agencies to respond to the unique needs of children sexually victimized by siblings and their families;

(5) Identify the unique consequences of sibling-perpetrated child sexual abuse for children, families, and communities;

(6) Identify high priority problems with law enforcement, social services, and treatment agencies in addressing the unique needs of children, families, and communities; and

(7) Other tasks deemed necessary by the Task Force.

Section 2. The members of the Task Force shall include two (2) members of the Senate appointed by the President of the Senate and two (2) members of the House of Representatives appointed by the Speaker of the House. One (1) Senator and one (1) Representative shall serve as co-chairs of the Task Force. The Legislative Research Commission shall make up to fifteen (15) appointments. The members shall be representative of the state agencies vested with the responsibility to provide services for sexually abused children, the administrators of the private and public facilities servicing sexually abused children, persons having an expertise in addressing the needs of sexually abused children, persons or families with direct experience with sibling child sexual abuse, and advocates for children.

Section 3. The Task Force shall submit an interim report to the Legislative Research Commission no later than January 1, 1999, and a final report no later than November 1, 1999.

Section 4. The estimated cost for staff services utilized in completing this study is $30,000. The regular Commission budget shall provide for staff services that are subject to the limitations and other research responsibilities of the Commission.

HCR 114, A CONCURRENT RESOLUTION directing a study relating to protection of the elderly from fraud and abuse.

WHEREAS, the Senior Citizens Advisory Commission indicates that fraudulent crime against the elderly is swiftly on the rise; and

WHEREAS, the Senior Citizens Advisory Commission indicates that fraudulent crime against the elderly is one of the elderly's greatest concerns; and

WHEREAS, there currently exist laws on fraud and protections under the consumer protection statutes; and

WHEREAS, the elderly continue to suffer from "scam artist" problems; and

WHEREAS, the state and local police and Attorney General's Office indicate that there needs to be a more efficient manner to educate the elderly about "scam artists"; and

WHEREAS, state and local police indicate that often they do not find out about the commission of these crimes until many days or months have passed because the victims feel ashamed; and

WHEREAS, the Senior Citizens Advisory Commission indicates that there is an additional problem of abuse of the elderly; and

WHEREAS, protection of its people is a number one goal of the commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The staff of the Legislative Research Commission is directed to undertake a study to determine how best to educate and protect our elderly citizens from fraud and abuse.

Section 2. The Legislative Research Commission staff shall report its findings and recommendations to the appropriate interim joint committee of the General Assembly thereof not later than July 1, 1999.

Section 3. Staff services to be utilized in completing this study are estimated to cost $15,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HCR 126, A CONCURRENT RESOLUTION recognizing the Kentucky Public Health Improvement Plan, a strategic plan for the public health in Kentucky, produced by the Department for Public Health.

WHEREAS, the Commonwealth is responsible for protecting the public health of the citizens; and

WHEREAS, the Commonwealth must address the public health vision and strategic plan based on a consensus of opinion among public health stakeholders within our state; and

WHEREAS, public health services are provided by the Department for Public Health; and

WHEREAS, the mission of the Kentucky Department for Public Health is to protect, promote, and monitor the improvement of the health of the public; and

WHEREAS, the vision for the Kentucky Department for Public Health is to provide a key leadership role in making Kentucky recognized nationally for our success in disease prevention, health education, and advocacy of wellness whereby this achievement will occur through development of effective, ongoing partnerships with public and private sector organizations and the collaborative effort of Kentucky's citizens; Kentuckians will enjoy the services of a system second to none in access, quality, and accountability; Kentucky's citizens will actively participate in programs and activities such as injury prevention, maintenance of a healthy and safe environment, wellness, immunization and disease screening activities; and the public health system will have a stable infrastructure with sufficient resources and flexibility to respond to change and to the needs of its citizens; and

WHEREAS, the plan is founded upon the following values and principles:

(1) Honesty/Integrity: public trust in the words and actions of public health professionals and public health leaders;

(2) Ethics: adherence to accepted standards of professional conduct;

(3) Excellence/Quality: achievement of high standards in public health assessment, policy development, and assurance;

(4) Efficiency: productive use of public resources;

(5) Effectiveness: achievement of the best possible outcomes in the health of Kentuckians;

(6) Compassion/Respect: sympathetic concern for and deference to the needs of the public;

(7) Responsibility/Accountability: adherence to goals and priorities set for public health; appropriate use of resources;

(8) Accessibility: readily-available, consumer-oriented activities and services; and

(9) Prevention/Education: priority on promoting health and preventing disease, disability, and premature death;

WHEREAS, the three core/primary functions of public health are assessment, policy development, and assurance; and

WHEREAS, the goals as stated in the Kentucky Public Health Improvement Plan are related to the three core/primary functions of public health; and

WHEREAS, the priority health issues of Kentucky, as expressed in the Plan, are:

(1) Reducing teenage pregnancy and low-birth-weight babies;

(2) Reducing infant and child deaths;

(3) Maintaining the health of a rapidly growing elderly population;

(4) Achieving appropriate immunizations for children;

(5) Reducing disability and premature death of children and youth;

(6) Improving lifestyle activities, including physical fitness and exercise, nutrition, and positive parenting; reducing use of tobacco, alcohol, and illegal substances; and increasing seat-belt use;

(7) Providing adequate prenatal care for pregnant women;

(8) Assuring access by all Kentuckians to primary health care, especially in rural and inner-city areas;

(9) Assuring access by both private and public health providers to health and health-related information;

(10) Meeting environmental health standards;

(11) Maintaining food safety; and

(12) Reducing communicable diseases; and

WHEREAS, a major concern exists centering on the financial resources of Kentucky's public health system to support its primary public health functions;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That public health stakeholders can be expected to use the Kentucky Public Health Improvement Plan in the following ways:

(a) As a guide for public health and local public health departments to plan their activities and budget their resources.

(b) As a guide for public health to educate the public about the activities and goals of the Department, its resource needs, and the progress it has made in achieving public health goals.

(c) As a guide for health-planning purposed by public and private health providers, such as hospitals, nursing homes, by provider associations, such as hospital associations, professional associations; and by health and social service organizations, including funding sources, and nonprofit human services agencies.

(d) As a guide for local groups and coalitions of health and health-related providers, and by local human services and other agencies, as for example, public schools, in the development of innovative efforts to provide community assessment, policy development, and assurance.

(e) As a resource for health policy analysts and academicians to devise and evaluate innovative health programs and services.

Section 2. The Kentucky Public Health Improvement Plan will be considered in health budget decisions.

Section 3. The Kentucky Public Health Improvement Plan will be used as a measure of the adequacy of funding available for public health purposes.

SB 28, AN ACT relating to physician assistants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing ***the physician***~~[him]~~ to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for Human Resources, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Human Resources by KRS Chapter 211 to

provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;[~~and~~]

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation*;*

(17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to the effective date of this Act;

(18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and

(19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

Section 2. KRS 311.560 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no person shall engage or attempt to engage in the practice of medicine or osteopathy within this state, or open, maintain, or occupy an office or place of business within this state for engaging in practice, or in any manner announce or express a readiness to engage in practice within this state, unless ***the person***[~~he~~] holds a valid and effective license or permit issued by the board as hereinafter provided.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) Commissioned medical officers of the Armed Forces of the United States, or medical officers of the United States Public Health Service, the United States Veterans Administration, and other agencies of the government of the United States of America, while said persons are engaged in the performance, within this state, of their official duties under federal laws;

(b) Persons who, being nonresidents of Kentucky and lawfully licensed to practice medicine or osteopathy in their states of actual residence, infrequently engage in the practice of medicine or osteopathy within this state, when called to see or attend particular patients in consultation and association with a physician licensed pursuant to this chapter;

(c) Graduates of medical or osteopathic schools approved by the board, while engaged in performing supervised internship or first-year postgraduate training approved by the board at hospitals in this state. All first-year postgraduate trainees shall register with the board at no cost, on forms provided by the board. This shall not be construed to otherwise exempt interns or first-year postgraduate trainees, or to exempt in any manner resident or staff physicians of hospitals, from the licensure requirements of KRS 311.550 to 311.620.

(3) Physician assistants shall be considered to practice medicine or osteopathy with physician supervision. A physician assistant may perform those duties and responsibilities that are delegated by the supervising physician. A physician assistant shall be considered the agent of the supervising physician in the performance of all practice-related activities, including but not limited to the performance of or ordering of diagnostic, therapeutic, and other medical services. A physician assistant shall not render services in hospitals or other licensed health care facilities without the express written permission of the facility's governing body. The facility may restrict the physician assistant's scope of practice within the facility as the facility deems appropriate.

(4) A physician assistant may prescribe and administer drugs and medical devices to the extent delegated by the supervising physician. Prescribing and administering of drugs may include all nonscheduled legend drugs. Any physician assistant who is delegated prescribing privileges may request, receive, and sign for professional sample drugs and distribute professional sample drugs to patients.

Section 3. KRS 311.565 is amended to read as follows:

(1) The board may:

(a) Exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy which shall include, but not be limited to, promulgation of reasonable administrative regulations enabling the board to regulate the conduct of its licensees;

(b) Promulgate reasonable administrative regulations establishing moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and permits that may be issued by the board;

(c) Issue, deny, suspend, limit, restrict, and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620;

(d) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary, as provided by KRS 311.530 to 311.620, and shall carry out the duties of the executive director as set forth elsewhere in this chapter;

(e) Appoint a general counsel and assistant general counsel and fix their compensation;

(f) Appoint investigatory personnel and fix their compensation;

(g) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension, and revocation of licenses. All administrative hearings conducted by the board, a member of the board, or a hearing officer appointed by the board, shall be conducted in accordance with KRS Chapter 13B. No hearing officer shall be empowered to place any licensee on probation or to issue, refuse, suspend, limit, or revoke any license;

(h) Appoint committees of licensees, who need not be board members, to review issues of public or medical interest before the board and to make recommendations to the board on the issues;

(i) Promulgate administrative regulations to promote the efficient and fair conduct of disciplinary proceedings;

(j) Promulgate a code of conduct governing the practice of medicine and osteopathy, which shall be based upon generally-recognized principles of professional ethical conduct;

(k) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620;

(l) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;

(m) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, the National Gaint Committee of Preregistration Physician Training Programs, or any approved successors thereof;

(n) Issue and renew regular licenses to practice medicine or osteopathy in accordance with KRS 311.530 to 311.620 and any reasonable regulations of the board;

(o) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to administrative regulations promulgated by the board; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for nondisciplinary reasons;

(p) Appoint examiners, who need not be members of the board, and employ or contract with the Federation of State Medical Boards of the United States, Inc., or the National Board of Medical Examiners or other organizations, agencies, or individuals to prepare examination questions and grade examination papers;

(q) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620;

(r) Prescribe the time, place, method, manner, scope, and content of examinations, but at least two (2) examinations shall be held annually;

(s) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data;

(t) Prescribe and collect reasonable fees and charges for examinations, directories, and the issuance and renewal of licenses and permits; ***and***

(u) Impose fines of not greater than five thousand dollars ($5,000) per violation upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly~~,~~ promulgated disciplinary regulation of the board[~~; and~~

~~(v) Exercise all the administrative functions of the state in regard to the regulation of physician assistants. In promulgating these regulations under the provisions of KRS Chapter 13A, the board shall address:~~

~~1. The professional qualifications of physician assistants;~~

~~2. The supervision of physician assistants by licensed physicians;~~

~~3. The review and discipline of physician assistants and their supervising physicians;~~

~~4. The scope of practice allowed physician assistants;~~

~~5. The facilities in which physician assistants may practice; and~~

~~6. The delegation of responsibilities from physicians to physician assistants.~~

~~The board may establish qualifications that the physician assistants shall attain before the board grants the right to practice in this state. At a minimum, these qualifications shall include the passage of a written examination approved by the board and satisfactory completion of a clinical training program approved by the board. The board may establish an advisory committee to aid the board in the regulation of physician assistants, who shall be considered adjuncts to supervising physicians and not independent practitioners of any healing art]~~.

(2) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a physician licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a physician is falsely accused.

(3) The board, the hearing officer, and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

SECTION 4. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate all administrative regulations in accordance with the provisions of KRS Chapter 13A that are reasonable and necessary for the performance of the various duties imposed upon the board by the provisions in Sections 1, 2, and 4 of this Act.

(2) The board shall establish a nine (9) member physician assistant advisory committee which shall review and make recommendations to the board regarding all matters relating to physician assistants that come before the board. The matters shall include, but not be limited to:

(a) Applications for physician assistant credentialing;

(b) Renewal requirements;

(c) Approval of supervising physicians;

(d) Disciplinary actions; and

(e) Establishment and revision of administrative regulations.

(3) The physician assistant advisory committee shall be appointed by the board and shall consist of five (5) practicing physician assistants, two (2) supervising physicians, one (1) member of the board, and one (1) citizen at large. Initial appointments shall be for two (2) years for three (3) members, three (3) years for three (3) members, and four (4) years for three (3) members. Terms thereafter shall be for four (4) years. Members shall serve no more than two (2) consecutive four (4) year terms.

(4) The chairperson of the advisory committee shall be elected by a majority vote of committee members and shall be responsible for presiding over meetings that shall be held on a regular basis. Members shall receive reasonable reimbursement consistent with state personnel policy for expenditures in attending committee meetings.

(5) Nothing in this chapter shall be construed to require credentialing of a physician assistant student enrolled in a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or its successor agency or of a physician assistant employed in the service of the federal government while performing duties incident to that employment.

Section 5. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" shall mean Kentucky Board of Nursing.

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A.

(3) "Nurse" shall mean a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means

of:

(a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation, and evaluation based on nationally-accepted standards of nursing practice.

(5) "Registered nurse" shall mean one who is licensed under the provisions of this chapter to engage in registered nursing practice.

(6) "Registered nursing practice" shall mean the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

(a) The care, counsel, and health teaching of the ill, injured, or infirm.

(b) The maintenance of health or prevention of illness of others.

(c) The administration of medication and treatment as prescribed by a physician, ***physician assistant,*** dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses. Components of medication administration include, but are not limited to:

1. Preparing and giving medications in the prescribed dosage, route, and frequency;
2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
3. Intervening when emergency care is required as a result of drug therapy;
4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
6. Instructing an individual regarding medications.

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses.

(7) "Advanced registered nurse practitioner" shall mean one who is registered and designated to engage in advanced registered nursing practice including, but not limited to, the nurse anesthetist, nurse midwife, and nurse practitioner pursuant to KRS 314.042.

(8) "Advanced registered nursing practice" shall mean the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally-established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation.

(9) "Licensed practical nurse" shall mean one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice.

(10) "Licensed practical nursing practice" shall mean the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist.

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.

(c) The administration of medication or treatment as authorized by a physician, ***physician assistant,*** dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.

(d) Teaching, supervising, and delegating except as limited by the board.

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.

(11) "School of nursing" shall mean a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.

(12) "Continuing education" shall mean offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.

(13) "Nursing assistance" shall mean the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.

(14) "Sexual assault nurse examiner" shall mean a registered nurse who has completed the required education and clinical experience and been credentialed by the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(2).

Section 6. KRS 315.040 is amended to read as follows:

(1) Nothing in this chapter shall be construed to prevent, restrict, or otherwise interfere with the sale of nonprescription drugs in their original packages by any retailer. No rule or regulation shall be adopted by the Board of Pharmacy under this chapter which shall require the sale of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist.

(2) Nothing in this chapter shall interfere with the professional activities of any licensed practicing physician, or prevent ***the physician***[~~him~~] from keeping any drug or medicine that he ***or she*** may need in his ***or her*** practice, from compounding ***the physician's***[~~his~~] own medications, or from dispensing or supplying to[~~ his~~] patients any article that seems[~~ to him~~] proper ***to the physician***.

(3) Nothing in this chapter shall be construed to interfere with the activities of a midlevel health care practitioner as provided in KRS 216.925.

(4) Nothing in this chapter pertaining to the use of collaborative care agreements shall apply in any hospital or other health facility operated by a hospital without the express written permission of the hospital's governing body. Collaborative care agreements may be restricted by the policies and procedures of the facility.

(5) Nothing in this chapter shall interfere with the activities of a physician assistant as authorized in KRS Chapter 311.

Section 7. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) The term "secretary" means the secretary of the Cabinet for Human Resources;

(2) The term "cabinet" means the Cabinet for Human Resources or its designee;

(3) The term "person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity;

(4) The term "food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(5) The term "drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(6) The term "device", except when used in subsection (12) of this section and in subsection (10) of KRS 217.175, subsection (6) of KRS 217.035, subsection (3) of KRS 217.065, and subsection (3) of KRS 217.095, means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(7) The term "cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of any such articles, except that such term shall not include soap;

(8) The term "official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(9) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(10) The term "immediate container" shall not include package liners;

(11) The term "labeling" means all labels and other written, printed or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(12) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(13) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(14) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(15) The term "new drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(16) The term "contaminated with filth" shall apply to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations;

(17) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment;

(18) The term "federal act" means the federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.; 52 Stat. 1040 et seq., or amendments thereto);

(19) The term "flour" shall include and be limited to the foods, commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(20) The term "enriched" as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of "enriched" flour as defined under the federal act;

(21) The terms "bread" and "enriched bread" shall include, and be limited to, the foods commonly known and described as "white bread," "white rolls," "white buns," "enriched white bread," "enriched rolls," and "enriched white buns," as defined under the federal act;

(22) The term "filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for

flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition shall not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(23) The term "practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices; it shall also include optometrists when administering or prescribing pharmaceutical agents authorized in subsections (13), (14), and (15) of KRS 320.240,~~[and]~~ advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042***, and physician assistants when administering or prescribing pharmaceutical agents as authorized in subsections (3) and (4) of Section 2 of this Act***;

(24) The term "prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(25) The term "Meat Inspection Act" means the federal Meat Inspection Act (21 U.S.C. Sec. 71 et seq.; 34 Stat. 1260 et seq., including any amendments thereto);

(26) The term "Poultry Products Inspection Act" means the federal Poultry and Poultry Products Inspection Act; 21 U.S.C. Sec. 451 et seq.; Public Law 85-172; 71 Stat. 441, including any amendments thereto;

(27) The term "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. Sec. 1451 et seq., and all amendments thereto;

(28) The term "pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of the federal Insecticide, Fungicide and Rodenticide Act and subsequent amendments thereto, and which is used in the production, storage, or transportation of raw agricultural commodities;

(29) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(30) The term "food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

- (a) A pesticide chemical in or on a raw agricultural commodity; or
- (b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or
- (c) A color additive; or
- (d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Meat Inspection Act of 1907 and subsequent amendments thereto;

(31) (a) The term "color additive" means a material which:

- 1. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or
- 2. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with other substance, of imparting color thereto; except that the term shall not include any material which has been or hereafter is exempted under the federal act;

(b) The term "color" shall include, but not be limited to black, white, and intermediate grays;

(c) Nothing in paragraph (a)1. of this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(32) The term "Environmental Pesticide Control Act of 1972" means the federal Environmental Pesticide Control Act of 1972, Public Law 92-516, and all amendments thereto;

(33) The term "retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(34) The term "food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It shall not include food vending machines, establishments serving beverages only in single service or original containers or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(35) The term "temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(36) The term "retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but shall not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(37) The term "salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(38) The term "salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(39) The term "food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but shall not include retail food establishments; and

(40) The term "food storage warehouse" means any establishment in which food is stored for subsequent distribution.

SB 68, AN ACT relating to retail food establishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act;

(3) "Cabinet" means the Cabinet for Human Resources or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and

thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(7) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(8) "Device," except when used in subsection (41) of this section, subsection (6) of KRS 217.035, subsection (3) of KRS 217.065, subsection (3) of KRS 217.095, and subsection (10) of KRS 217.175, means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(10) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(11) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Public Law 92-516, and all amendments thereto;

(12) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. sec. 1451 et seq., and all amendments thereto;

(13) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. sec. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(14) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(15) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(16) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(17) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. sec. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(18) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments;

(19) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(20) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(21) "Immediate container" does not include package liners;

(22) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(23) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;

(24) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(25) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(26) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. sec. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(27) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(28) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(29) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(30) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(31) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act; 21 U.S.C. sec. 451 et seq., Public Law 85-172, 71 Stat. 441, and any amendments thereto;

(32) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in subsections (13), (14), and (15) of KRS 320.240, and advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042;

(33) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(34) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(35) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(36) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(37) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(38) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(39) "Secretary" means the secretary of the Cabinet for Human Resources;

(40) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(41) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(42) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(43) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment

[~~(1) The term "secretary" means the secretary of the Cabinet for Human Resources;~~

~~(2) The term "cabinet" means the Cabinet for Human Resources or its designee;~~

~~(3) The term "person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity;~~

~~(4) The term "food" means:~~

~~(a) Articles used for food or drink for man or other animals;~~

~~(b) Chewing gum; and~~

~~(c) Articles used for components of any such article;~~

~~(5) The term "drug" means:~~

~~(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;~~

~~(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;~~

~~(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and~~

~~(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;~~

~~(6) The term "device", except when used in subsection (12) of this section and in subsection (10) of KRS 217.175, subsection (6) of KRS 217.035, subsection (3) of KRS 217.065, and subsection (3) of KRS 217.095, means instruments, apparatus and contrivances, including their components, parts and accessories, intended:~~

~~(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or~~

~~(b) To affect the structure or any function of the body of man or other animals;~~

~~(7) The term "cosmetic" means:~~

~~(a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and~~

~~(b) Articles intended for use as a component of any such articles, except that such term shall not include soap;~~

~~(8) The term "official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;~~

~~(9) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;~~

~~(10) The term "immediate container" shall not include package liners;~~

~~(11) The term "labeling" means all labels and other written, printed or graphic matter:~~

~~(a) Upon an article or any of its containers or wrappers; or~~

~~(b) Accompanying the article;~~

~~(12) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;~~

~~(13) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;~~

~~(14) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;~~

~~(15) The term "new drug" means:~~

~~(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed,~~

~~recommended, or suggested in the labeling thereof; or~~

~~(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;~~

~~(16) The term "contaminated with filth" shall apply to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations;~~

~~(17) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment;~~

~~(18) The term "federal act" means the federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.; 52 Stat. 1040 et seq., or amendments thereto);~~

~~(19) The term "flour" shall include and be limited to the foods, commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;~~

~~(20) The term "enriched" as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of "enriched" flour as defined under the federal act;~~

~~(21) The terms "bread" and "enriched bread" shall include, and be limited to, the foods commonly known and described as "white bread," "white rolls," "white buns," "enriched white bread," "enriched rolls," and "enriched white buns," as defined under the federal act;~~

~~(22) The term "filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition shall not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;~~

~~(23) The term "practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices; it shall also include optometrists when administering or prescribing pharmaceutical agents authorized in subsections (13), (14), and (15) of KRS 320.240, and advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042;~~

~~(24) The term "prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;~~

~~(25) The term "Meat Inspection Act" means the federal Meat Inspection Act (21 U.S.C. Sec. 71 et seq.; 34 Stat. 1260 et seq., including any amendments thereto);~~

~~(26) The term "Poultry Products Inspection Act" means the federal Poultry and Poultry Products Inspection Act; 21 U.S.C. Sec. 451 et seq.; Public Law 85-172; 71 Stat. 441, including any amendments thereto;~~

~~(27) The term "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. Sec. 1451 et seq., and all amendments thereto;~~

~~(28) The term "pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of the federal Insecticide, Fungicide and Rodenticide Act and subsequent amendments thereto, and which is used in the production, storage, or transportation of raw agricultural commodities;~~

~~(29) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;~~

~~(30) The term "food additive" means any substance, the intended use of which results or may be reasonably expected to result,~~

~~directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:~~

~~(a) A pesticide chemical in or on a raw agricultural commodity; or~~

~~(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or~~

~~(c) A color additive; or~~

~~(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Meat Inspection Act of 1907 and subsequent amendments thereto;~~

~~(31) (a) The term "color additive" means a material which:~~

~~1. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or~~

~~2. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with other substance, of imparting color thereto; except that the term shall not include any material which has been or hereafter is exempted under the federal act;~~

~~(b) The term "color" shall include, but not be limited to black, white, and intermediate grays;~~

~~(c) Nothing in paragraph (a)1. of this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.~~

~~(32) The term "Environmental Pesticide Control Act of 1972" means the federal Environmental Pesticide Control Act of 1972, Public Law 92-516, and all amendments thereto;~~

~~(33) The term "retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;~~

~~(34) The term "food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It shall not include food vending machines, establishments serving beverages only in single service or original containers or retail food stores which only cut, slice, and prepare cold cut sandwiches for individual consumption;~~

~~(35) The term "temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;~~

~~(36) The term "retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but shall not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;~~

~~(37) The term "salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;~~

~~(38) The term "salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;~~

~~(39) The term "food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but shall not include retail food establishments; and~~

~~(40) The term "food storage warehouse" means any establishment in which food is stored for subsequent distribution~~].

Section 2. KRS 217.126 is amended to read as follows:

(1) The cabinet shall suspend the permit to operate a retail food establishment immediately upon notice to the permit holder without a conference when:

(a) An inspection of an establishment reveals that any of the following conditions are present:

1. Sewage is standing in the food preparation, food storage, utensil washing, or storage areas;

2. Gross rodent or insect activity exists resulting in contamination of food or food equipment;

3. The water supply is contaminated or cut off with no approved alternative plan;

4. The establishment is operating in blatant disregard for safe cooking or holding temperatures for potentially hazardous foods; or

5. There is an infiltration of toxic or noxious gases, dust, or other irritants or contaminants causing apparent illness of employees or patrons; or

(b) The permit holder or authorized agent has interfered, as defined in subsection (23) of Section 1 of this Act, with the cabinet in the performance of its duties, after its agents have duly and officially identified themselves and the interference has been verified by the inspector's supervisor;

(c) An inspection of an establishment reveals a rating score of less than sixty (60); or

(d) An inspection reveals that an imminent health hazard as defined in subsection (22) of Section 1 of this Act still exists and the hazard has been verified by the agent's supervisor.

(2) In all other instances not covered by subsection (1) of this section[~~The cabinet or local health department concerned~~], after notice to the applicant or holder of a permit to operate and after an opportunity for a hearing as provided by administrative regulations of the secretary, ***the cabinet or local health department concerned*** may deny, suspend, or revoke a permit to operate in any case where it finds that there has been a failure to comply with the requirements of KRS 217.005 to 217.215 ***or the administrative***[~~and~~] regulations of the secretary. Any administrative hearing conducted under this section shall be conducted in accordance with KRS Chapter 13B.

Section 3. KRS 217.992 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 217.175 shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or by imprisonment for not more than thirty (30) days, or both; but if the violation is committed after a conviction of the person under this section has become final, the person shall be subject to a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) or by imprisonment for not more than ninety (90) days, or both.

(2) No person shall be subject to the penalties of subsection (1) of this section, for having violated KRS 217.175(1) or (3) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect that the article is not adulterated or misbranded within the meaning of KRS 217.005 to 217.215, designating KRS 217.005 to 217.215.

(3) No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of the false advertisement, unless he has refused, on the request of the cabinet to furnish the cabinet the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the United States who causes him to disseminate the advertisement.

(4) Any person who operates a ***retail*** food ***establishment, food processing establishment,***[~~service~~] food storage warehouse, salvage distributor, or salvage processing plant[~~ establishment~~], without a permit as provided in KRS 217.005 to 217.215 or who fails to comply with any regulation adopted thereto shall be guilty of a misdemeanor and shall on conviction be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or by imprisonment for not more than thirty (30) days, or both, but if the violation is committed after a conviction of the person under this section has become final, the person shall be subject to a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or by imprisonment for not more than ninety (90) days, or both.

(5) Any person who violates any provision of KRS 217.005 to 217.215, for which a specific penalty is not otherwise provided, or any regulation adopted under the provision of KRS 217.005 to 217.215, or who fails to comply with an order of the cabinet issued pursuant thereto, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each day of violation or noncompliance shall constitute a separate offense.

Section 4. KRS 315.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, or ingestion, whether topically or by any other means;

(2) "Association" means the Kentucky Pharmacists Association;

(3) "Board" means the Kentucky Board of Pharmacy;

(4) "Collaborative care agreement" means a written agreement between a specifically identified individual practitioner and a pharmacist who is specifically identified, whereby the practitioner outlines a plan of cooperative management of a specifically identified individual patient's drug-related health care needs that fall within the practitioner's statutory scope of practice. The agreement shall be limited to specification of the drug-related regimen to be provided and any tests which may be necessarily incident to its provisions; stipulated conditions for initiating, continuing, or discontinuing drug therapy; directions concerning the monitoring of drug therapy and stipulated conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration;

(5) "Compound" or "compounding" means the preparation or labeling of a drug pursuant to or in anticipation of a valid prescription drug order including, but not limited to, packaging, intravenous admixture or manual combination of drug ingredients. Compounding, as used in this chapter, shall not preclude simple reconstitution, mixing, or modification of drug products prior to administration by nonpharmacists;

(6) "Confidential information" means information which is accessed or maintained by a pharmacist in a patient's record, or communicated to a patient as part of patient counseling, whether it is preserved on paper, microfilm, magnetic media, electronic media, or any other form;

(7) "Continuing education unit" means ten (10) contact hours of board approved continuing pharmacy education. A "contact hour" means fifty (50) continuous minutes without a break period;

(8) "Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;

(9) "Drug" means any of the following:

(a) Articles recognized as drugs or drug products in any official compendium or supplement thereto; or

(b) Articles, other than food, intended to affect the structure or function of the body of man or other animals; or

(c) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or

(d) Articles intended for use as a component of any articles specified in paragraphs (a) to (c) of this subsection;

(10) "Drug regimen review" means retrospective, concurrent, and prospective review by a pharmacist of a patient's drug-related history, including but not limited to, the following areas:

(a) Evaluation of prescription drug orders and patient records for:

1. Known allergies;
2. Rational therapy contraindications;
3. Appropriate dose and route of administration;
4. Appropriate directions for use; or
5. Duplicative therapies.

(b) Evaluation of prescription drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions;

(c) Evaluation of prescription drug orders and patient records for adverse drug reactions; or

(d) Evaluation of prescription drug orders and patient records for proper utilization and optimal therapeutic outcomes;

(11) "Immediate supervision" means under the physical and visual supervision of a pharmacist;

(12) "Manufacturer" means any person, except a pharmacist compounding in the normal course of professional practice, within the Commonwealth engaged in the commercial production, preparation, propagation, compounding, conversion or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container;

(13) "Medical order" means a lawful order of a specifically-identified practitioner for a specifically-identified patient for the patient's health care needs. "Medical order" may or may not include a prescription drug order;

(14) "Nonprescription drugs" means nonnarcotic medicines or drugs which may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government;

(15) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(16) "Pharmacist intern" means a natural person who is:

(a) Currently certified by the board to engage in the practice of pharmacy under the direction of a licensed pharmacist and who satisfactorily progresses toward meeting the requirements for licensure as a pharmacist;

(b) A graduate of an approved college or school of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee (FPGEC) certificate, who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;

(c) A qualified applicant awaiting examination for licensure as a pharmacist or the results of an examination for licensure as a pharmacist; or

(d) An individual participating in a residency or fellowship program approved by the board for internship credit;

(17) "Pharmacy" means every place where:

(a) Drugs are dispensed under the direction of a pharmacist;

(b) Prescription drug orders are compounded under the direction of a pharmacist; or

(c) A registered pharmacist maintains patient records and other information for the purpose of engaging in the practice of pharmacy, whether or not prescription drug orders are being dispensed;

(18) "Pharmacy technician" means a natural person who works under the immediate supervision, or general supervision if otherwise provided for by statute or administrative regulation, of a pharmacist for the purpose of assisting a pharmacist with the practice of pharmacy;

(19) "Practice of pharmacy" means interpretation, evaluation, and implementation of medical orders and prescription drug orders; responsibility for dispensing prescription drug orders, including radioactive substances; participation in drug and drug-related device selection, administration of medication in the course of dispensing or maintaining a prescription drug order, and drug evaluation, utilization, or regimen review; maintenance of patient pharmacy records; and provision of patient counseling and those professional acts, professional decisions, or professional services necessary to maintain and manage all areas of a patient's pharmacy-related care, including pharmacy-related primary care as defined in this section;

(20) "Practitioner" has the same meaning given in KRS 217.015***(32)***[~~(23)~~];

(21) "Prescription drug" means a drug which:

(a) Under federal law is required to be labeled with either of the following statements:

1. "Caution: Federal law prohibits dispensing without prescription"; or
2. "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or

(b) Is required by any applicable federal or state law or administrative regulation to be dispensed only pursuant to a prescription drug order or is restricted to use by practitioners;

(22) "Prescription drug order" means an original or new order from a practitioner for drugs, drug-related devices or treatment for a human or animal, including orders issued through collaborative care agreements. Lawful prescriptions result from a valid practitioner-patient relationship, are intended to address a legitimate medical need, and fall within the prescribing practitioner's scope of professional practice;

(23) "Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries as well as those other activities falling within their statutory scope of practice;

(24) "Society" means the Kentucky Society of Health-Systems Pharmacists;

(25) "Supervision" means the presence of a pharmacist on the premises to which a pharmacy permit is issued, who is responsible, in whole or in part, for the professional activities occurring in the pharmacy; and

(26) "Wholesaler" means any person within the Commonwealth who legally buys drugs for resale or distribution to persons other than patients or consumers.

The Committee on Appropriations and Revenue reported **HB 324**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Judiciary reported **HB 480**, with Committee Substitutes attached thereto, and **HB 483**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 480** is as follows:

AN ACT relating to structural commercial and noncommercial pest control and fumigation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 217D IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ

AS FOLLOWS:

(1) This chapter shall be known as the "Kentucky Structural Pesticide Use, Distribution, and Service Act of 1998".

(2) This chapter shall be regulated and administered by the Department of Agriculture, hereinafter referred to as the department.

(3) The purpose of this chapter is to regulate in the public's interest the use and distribution of structural pesticides.

(4) The provisions of this chapter shall apply to all persons who use or distribute structural pesticides or provide a structural pest control service except:

(a) An individual applying structural pesticides on his or her own home, household, lawn, or yard on the condition that the homeowner not publicly hold himself or herself out as being in the business of applying pesticides;

(b) A person or the employees of a person engaged in the sale or distribution of structural pesticides unless structural pesticides sales equal or exceed five percent (5%) of the person's gross annual sales; or

(c) An individual applying structural pesticides on his or her own land or, if an employee, to that land owned or managed by his employer except if the individual is a noncommercial applicator.

SECTION 2. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Animal" means a sentient living organism typically capable of voluntary motion and sensation, including all vertebrate and invertebrate species;

(2) "Applicant" means any person applying for a license to apply structural pesticides or perform related services under this chapter;

(3) "Applicator" means an individual who applies structural pesticides;

(4) "Beneficial animals" means animals that, during some part of their life cycle, are effective pollinators of plants, are parasites or predators of pests, are declared an endangered species, or are otherwise useful to human beings, unless declared a pest by the department;

(5) "Branch office" means any location of a firm other than its designated principal place of business location, excluding on and off premises bulk storage or receiving warehouses used solely for the purpose of customer order filling;

(6) "Commercial" means having financial gain as the object, or being engaged in trade or commerce;

(7) "Certified applicator" means a competent individual who has fulfilled the federal and state certification requirements for the use and supervision of use of restricted use structural pesticides;

(8) "Commercial applicator" means an individual who has met the requirements of this chapter whose permitted use and supervision of structural pesticide use is restricted to an employer-licensed firm and its designated license holder;

(9) "Commercial operator" means an individual who has met the requirements of this chapter who is qualified to be the designated license holder for a licensed firm;

(10) "Commissioner" means the Commissioner of Agriculture;

(11) "Competent individual" means an individual with the ability to read, comprehend, and follow oral and written instructions, including the text of structural pesticide labels, and who is at least eighteen (18) years of age;

(12) "Department" means the Department of Agriculture;

(13) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant or animal tissues;

(14) "Designated license holder" means the commercial or noncommercial operator within the licensed firm whose responsibility is for the management and control of structural pesticide use or distribution, structural pesticide operations, and affairs of the licensed firm, including all related activities such as sales, advertising, consulting, soliciting, training, compliance, or the performance of any of the services regulated under this chapter;

(15) "Distribution" means to advertise as a firm, or solicit sales, to offer for sale, hold for sale, barter for, or sell any structural pesticide product or related items or materials, or ship, deliver for shipment, or receive and having received, deliver or offer to deliver any structural pesticide, structural pesticide container,. or related materials and items, or the storage, disposal, mixing, loading of structural pesticide containers except for internal distribution of structural pesticides, or related materials or items within a firm;

(16) "Environment" means water, air, land, plants, man, various other animals living on or in water, air, land, plants, and man, and the interrelationships that exist between them;

(17) "EPA" means the United States Environmental Protection Agency;

(18) "Equipment" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any structural pesticide on or in the land, but shall not include any pressurized hand-sized household device used to apply any structural pesticide unless used commercially;

(19) "Firm" means a sole proprietorship, partnership, corporation, organization, association, or any combination of them;

(20) "Fumigation" means the use of poisonous gases for the control of pests;

(21) "Fungus" means all nonflowering plants that have no chlorophyll, that usually reproduce asexually, and that grow on dead organic matter or live parasitically, including but not limited to rusts, smuts, mildews, molds, and yeasts, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;

(22) "General pests" means all invertebrates, including but not limited to arthropods, mollusks, annelid worms, rodents, or other pestiferous vertebrate animals or vermin, excluding wood-destroying organism pests and beneficial animals;

(23) "Individual" means a living human being;

(24) "Insect" means any invertebrate animal generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, including but not limited to beetles, bugs, bees, wasps, and flies, and means to include other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including but not limited to spiders, mites, ticks, centipedes, wood lice, nematodes and other worms, and all other invertebrates;

(25) "KPCA" means the Kentucky Pest Control Association, Inc.;

(26) "Label" means the written, printed, or graphic matter on or attached to the structural pesticide or device or to any of its containers or wrapper;

(27) "Land" means all land and water area, including airspace, and all plants, animals, structures, building devices, and contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

(28) "License" means an instrument issued by the department authorizing a person in the use or distribution of structural pesticides to the extent permitted by that license;

(29) "Licensed firm" means a person authorized by the department within its categories and classifications to operate as a commercial or noncommercial firm within the state;

(30) "Manager" means an employee of a licensed firm who is a reserve commercial operator or a certified applicator who is authorized and qualified by the department to manage an office of a licensed firm;

(31) "Nematode" means an invertebrate animal of the phylum Nemathelminthes and class Nematoda and that is an unsegmented round worm with elongated, fusiform, or sac-like body covered with cuticle, that inhabits soil, water, plants, or plant parts, and may also be called nema or eelworm;

(32) "Noncommercial" means a person or business that does not publicly hold himself out as being in the business of applying structural pesticides and that does not accept compensation;

(33) "Noncommercial applicator" means an individual including, but not limited to, a janitor, maintenance person, or groundskeeper, who is a certified applicator and who has met the requirements of this chapter, whose permitted use of structural pesticides is restricted to his own land, or if an employee of a firm, to that land owned or managed by the employer, and application is made on or in health care facilities, public and private schools, and public housing authorities;

(34) "Noncommercial operator" means an individual who has met the requirements of this chapter to be a noncommercial-certified applicator and who is qualified to be the designated license holder for a noncommercial-licensed firm;

(35) "Nuisance animal" means any animal, including feral animals and other wildlife, not normally considered a pest, but that infests, attacks, or invades land, causes damage to land, or poses an unacceptable risk to the land or to the health and well-being of individuals on land;

(36) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not;

(37) "Pest" means:

(a) Any insect, which includes all classes of Arthropoda, snails, slugs, rodents, nematodes, or fungus; and

(b) Any other form of terrestrial or animal life, virus, bacteria, or other microorganism, except viruses, bacteria,

or other microorganisms on or in living man or other living animals, and that is normally considered to be a pest, or that the department declares to be a pest;

(38) "Pesticide" means any substance or mixture of substances intended to prevent, destroy, control, repel, mitigate, or regulate the growth of any pest;

(39) "Principal place of business" means the point of headquarters or principal location of a firm within the state;

(40) "Registered trained employee" means any competent individual employed by a licensed firm or public entity who has been registered with the department and who works under direct supervision of a certified applicator to operate equipment for the application of structural pesticide or to apply structural pesticide manually or to perform related services;

(41) "Reserve commercial operator" means a commercial operator who is qualified to become a designated license holder or a branch office manager of a licensed firm;

(42) "Reserve commercial operator license" means a commercial operator's license issued by the department that, when authorized by the department, would permit a new designated license holder to work in the same capacity as the primary designated license holder who is no longer licensed or no longer associated with the licensed firm;

(43) "Restricted use pesticides" means any structural pesticide classified for restricted use by the administrator of the EPA or by administrative regulation of the department;

(44) "Rodent" means rats or mice and any other animal of the class Rodentia except nuisance animals;

(45) "Snails or slugs" includes all harmful mollusks;

(46) "Structure" means, but is not limited to, residential, industrial, and commercial buildings and their land and water areas, building devices, and contrivances and machinery appurtenant hereto or situated thereon, fixed or mobile, including any used for transportation such as railroad cars, trucks, automobiles, farm tractors or machinery, ships, airplanes, or any one or any combination thereof, including all stages of their construction and development;

(47) "Structural pesticides" means pesticides used for the control, elimination, or prevention of structural pests.

(48) "Structural pests" means any invertebrate pest, wood-destroying organism pest, or vertebrate animal, including nuisance or feral animals, that infests, infects, attacks, or invades structures or their contents, by any method, that causes or could cause damage to the structure or pose an unacceptable risk to the structure or to the health and well-being of individuals within structures. "Structural pests" does not include those pests commonly known as weeds, agriculture invertebrate pests when living on plants, and turf and ornamental plant invertebrate pests when living on plants;

(49) "Structural pest control" means the use or distribution of structural pesticides for the control, elimination, or prevention of pests at their source and otherwise that invade or attack or are known to invade or attack structures and their contents, including the identification of infestations or infections, making inspections, inspection reports, recommendations, engaging in consulting services, offering advice regarding control methods or sanitation procedures relative to pests, making estimates or bids whether oral or written, advertising as a structural pesticide firm, operator, or applicator, performing services designed to control, eliminate, prevent, or repel pests or pest infestations by the use of structural pesticides, mechanical devices, or structural modifications under whatever name known, in all structures including railroad cars, trucks, ships, airplanes, or any combination of structures in all stages of construction, and the contents of structures, for a fee or otherwise. "Structural pest control" does not include textile manufacturers, cleaners, or furriers that treat fabrics or furs in their place of business exclusively;

(50) "Under direct supervision" means:

(a) The physical presence of a certified applicator at a work location that permits direct voice contact so as to instruct and control the actions of an individual during the use or distribution of structural pesticides; or

(b) A registered trained employee using general use structural pesticides under the following conditions:

1. Having the ability to establish voice communication with a certified applicator while the application of structural pesticides is in progress at a worksite;

2. Possessing at the work site the label and material safety data sheet of the structural pesticide to be used; and

3. Having written or otherwise verifiable instruction covering:

a. General and worksite-specific precautions to prevent injury to persons or damage to property;

b. Worksite structural pesticide mixing, handling, storage, and application; and

c. Proper disposal of structural pesticides containers;

(51) "Use" means any act of handling, applying, or exposing the environment to a structural pesticide, including but not limited to:

(a) Storing or disposing any structural pesticide or structural pesticide container;

(b) Performing structural pest control services to prevent, control, repel, or eliminate pests, making inspections, reports, recommendations, or offering advice regarding pests;

(c) Using mechanical devices or land modifications under whatever name known, for the purpose of preventing, controlling, and repelling pests; or

(d) Advertising as a firm, or soliciting sales or services, or making estimates or bids whether oral or written, issuing contracts, or offering for sale, selling, or bartering for any structural pesticide service relating to this chapter;

(52) "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests, including but not limited to, mammals, birds, and aquatic life;

(53) "Wood-destroying organisms" means any organism that damages plant products, plant by-products, or any material used in the construction of structures, including but not limited to the old-house borer, powder-post beetle, termite, carpenter bee, carpenter ant, and fungi; and

(54) "Worksite" means any location where there is the use or distribution of structural pesticides.

SECTION 3. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department shall administer and enforce the provisions of this chapter and shall promulgate administrative regulations under KRS Chapter 13A to carry out the provisions of this chapter. The department shall, by registered mail, notify, in advance, the president of the KPCA board and chair of the Pest Control Advisory Board of any proposal for or changes in administrative regulations. If the department finds that the administrative regulations are necessary to carry out the purpose and intent of this chapter, the administrative regulations shall be promulgated and relate to the use or distribution of structural pesticides, and be relative to the hazards and benefits involved, and prescribe methods and equipment to be used; may restrict the storage of structural pesticides in designated areas and the type of structure and conditions for the storage of structural pesticides; may relate to the time, place, manner, and method of application of structural pesticides; may restrict or prohibit use of structural pesticides in designated areas; and shall encompass all reasonable factors that the department deems necessary to prevent damage or injury by the use or distribution of structural pesticides to the environment, including but not limited to:

(a) Plants, including forage plants, on adjacent or nearby lands;

(b) Wildlife;

(c) Fish and other aquatic life in waters; and

(d) Pollinating insects, beneficial animals, and persons.

(2) In promulgating administrative regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of this state and the federal government. The department shall consider the risks versus benefits to man and the environment, taking into account economic, social, and environmental factors of the use or distribution of any structural pesticide.

(3) The department shall by administrative regulation adopt a list of "restricted-use pesticides" for the state or for designated areas within the state if it finds that the characteristics of those structural pesticides require restricting their use to prevent injury on lands, or on lands other than the land to which they are applied, or to persons, animals, crops, pests, or vegetation other than the pests or vegetation that they are intended to destroy. For the purpose of uniformity of requirements between the states and the federal government, the department shall adopt the list of "restricted-use pesticides" as established by the EPA or other federal or state agencies.

(4) The department shall establish additional categories and classifications of licenses as required for conformance with the Federal Environmental Pesticide Control Act of 1972. The categories and classifications shall include applicator, operator, business, and other categories and classifications not specifically mentioned in this chapter. The administrative regulations shall specify the category and classification licensing conditions, procedures, and fees, not to exceed those fees specified for other similar licenses under this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department may categorize and classify licenses to be issued under this chapter. Separate subcategories and classifications may be specified with each having specific categories and classifications and may be specified as to methods used by any licensee to apply structural pesticides.

(2) A license issued by the department under this chapter shall not be transferred, assigned, rented, leased, sold, or used for the purpose of circumventing the intent of this chapter.

(3) Each license holder shall notify the department of any change of address or employment status within ten (10) days after a change has been made.

(4) No individual shall be required to pay over one hundred dollars ($100) in total license fees per year if that individual

desires to be licensed in one (1) or all of the classifications within a license category or in one (1) or all of the license categories provided for by the department.

SECTION 5. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person or firm to use or distribute structural pesticides or to provide a pest control related service without first obtaining a structural-commercial or noncommercial-firm license. The department shall require an annual fee of twenty-five dollars ($25) for each commercial-firm license issued. There shall not be a fee assessed for a noncommercial-firm license.

(2) A firm license shall be obtained for all commercial branch office locations.

(3) The department shall not issue a commercial-firm license to a person or firm without a structural commercial operator in the employ of the person or firm.

(4) The department shall not issue a noncommercial firm license to a person or firm without a noncommercial applicator as its designated license holder in the employ of the person or firm. A noncommercial firm licensee shall not advertise as a firm, solicit sales or services, make estimates or bids whether oral or written, issue contracts, offer for sale, sell, or barter for any structural pesticide service relating to this chapter.

(5) No commercial firm shall be issued a firm license without continual proof of financial responsibility as required by this chapter.

(6) Each application for a commercial or noncommercial firm license shall contain information identifying that the applicant is qualified to operate within the state, the applicant's proposed operations, including the license categories and classifications within the categories in which the applicant intends to operate, and the following:

(a) The designated license holder of the applicant;

(b) The full name of the individual who is making application on behalf of the applicant who will be the contact individual for the applicant until the license is issued;

(c) If the applicant is a receiver, trustee, firm, partnership, association, corporation, or other organized group of persons whether or not incorporated, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation, or group, or the name of the individual if a proprietorship;

(d) The location address of the principal place of business of the applicant in the state and elsewhere, and all branch office locations, or structural pesticide application locations if noncommercial, within the state;

(e) The name and address of a person whose domicile is in the state, or an entity within the state, who is authorized to receive and accept service of summons and legal notice of all kinds for the applicant; and

(f) Any other necessary information prescribed by the department.

SECTION 6. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) Application for a structural commercial or noncommercial individual's license shall be submitted in writing on a form furnished by the department. The application shall state the applicant's qualifications, license category, and classification within the category for which the applicant is applying and other information required by the department to carry out the purpose and intent of this chapter. Each applicant shall be required to present to the department satisfactory evidence of training or experience. Application for an operator's license shall be submitted at least thirty (30) days in advance of the testing date. Application for an applicator's license shall be submitted in advance as designated by the department.

(2) The department shall require the applicant to take and pass a timed written examination in the category and classification within the category for which the applicant seeks the license to demonstrate that the applicant possesses adequate knowledge concerning the law and its regulations, the proper use and distribution of the chemicals used, and the various equipment that may be used in the category and classifications within the category for which the applicant has applied.

(3) Each category and classification within the category shall be subject to separate testing procedures and requirements. The department shall give consideration to each category and classification within the category of license issued and the inherent risks or danger associated with the structural pesticide use or distribution in that category or classification within the category.

(4) No oral examinations shall be given. Written and timed examinations shall be given to all qualified applicants and administered by the department at times as the department shall set out or as designated by this chapter. The department shall charge a nonrefundable examination fee. The examination shall require, but not be limited to, a working knowledge of:

(a) The proper use of structural pesticides and structural pesticide equipment;

(b) The hazards or risks to the environment that may be involved in the use of structural pesticides and that could include drift, meteorological conditions, limits of residues, effect on wildlife including aquatic life,

runoff, soil pollution, or contamination of water, identifications of structural pesticides used and their application in a particular circumstance, and the effects on livestock, vegetation, and beneficial animals;

(c) Calculating the concentration of structural pesticides to be used in particular circumstances;

(d) Identification of pests, by their common name, and the damages caused by pests;

(e) Protective clothing and respiratory equipment required during the use of structural pesticides;

(f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the applicant proposes to use; and

(g) Applicable state and federal structural pesticide laws and regulations.

(5) The department shall notify the applicant of the results of the examination within ten (10) days of the close of the examination.

(6) When a license is issued to an applicant, the applicant shall be deemed to have fulfilled those requirements necessary to become a certified applicator in those categories and classifications within the category in which the license was issued.

(7) The department shall issue a license to the applicant in the categories and classifications within the category for which the applicant has qualified if the department finds that the applicant has met the following requirements:

(a) Is a legal resident of the United States of America;

(b) Has achieved a grade of at least seventy percent (70%) on the written section of the examination and at least seventy percent (70%) on the identification section of the examination. A minimum grade of seventy percent (70%) must be obtained on both sections of the examination on the same testing date;

(c) Has paid all licensing and certification fees;

(d) Is certified to use restricted-use pesticides in accordance with this chapter or is obtaining certification concurrent with receiving the license for which the applicant is applying;

(e) Has no felony convictions; and

(f) Has met the requirements of this chapter and its administrative regulations.

SECTION 7. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department shall by administrative regulations establish and administer a program to certify individuals as structural commercial or noncommercial applicators to use restricted-use pesticides. The department shall classify, by categories and classifications within the categories, the certifications to be issued under this section. The department shall require the applicant to take and pass a timed written examination in the categories and classifications within the categories for which the applicant seeks to become a certified restricted-use pesticide applicator. Standards for certification shall be set forth in the administrative regulations promulgated under this chapter.

(2) It shall be unlawful for a person to use restricted-use pesticides unless the person is qualified under this chapter as a certified structural commercial or non-commercial applicator. The exceptions contained in subsection (4) of Section 1 of this Act do not apply to this subsection.

(3) Individuals who, upon the effective date of this Act, are licensed to use structural pesticides but who are not certified to apply restricted-use pesticides shall obtain certification at the time of the next renewal of their license in order to renew their license. No examination shall be required of that person so long as certification is obtained in the same classification.

(4) Individuals who, upon the effective date of this Act, are certified to use restricted-use pesticides but who are not licensed to use structural pesticides may obtain a license in the same classification in which they are certified and without examination.

SECTION 8. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any individual to act as a structural commercial operator or as the designated license holder of a licensed firm without having obtained a structural commercial operator license from the department. The department shall require an annual fee of one hundred dollars ($100) for a structural commercial operator's license. There shall be only one (1) commercial operator's license holder per licensed firm with one (1) or more reserve commercial operator license holders allowed for a licensed firm. The department shall require an annual fee of twenty-five dollars ($25) for a reserve commercial operator's license.

(2) Each application for a structural commercial operator's license shall contain information regarding the applicant's qualifications and proposed operations, commercial operator's license category and classification or classifications within the category for which the applicant is applying, and include the following:

(a) The full name of the individual applying for the license;

(b) If the applicant is to be a designated license holder for a licensed firm, the name of the licensed firm for whom the applicant is to be the designated license holder;

(c) The place of business location and home address of the applicant in the state or elsewhere;

(d) The name and address of an individual whose domicile is in the state, or an entity located within the state, who is authorized to receive and accept service of summons and legal notice of all kinds for the applicant; and

(e) Any other necessary information prescribed by the department.

(3) The department shall require an applicant for a structural commercial operator's license to take and pass a timed written examination in the category and classification for which the applicant seeks the commercial operator's license to demonstrate that the applicant possesses adequate knowledge concerning the proper use and distribution of structural pesticides and the various equipment that may be used in the category and classifications for which the applicant has applied. The examination shall require a working knowledge of:

(a) The proper use of structural pesticides, structural pesticide equipment, and label and material safety data sheet comprehension;

(b) The hazards or risks to the environment that may be involved in the use of structural pesticides;

(c) Calculating the concentration of structural pesticides to be used in particular circumstances;

(d) Identification of pests, by their common name, and the damages caused by pests;

(e) Protective clothing and respiratory equipment required during the use of structural pesticides;

(f) General precautions to be followed in the disposal of containers and the cleaning and decontamination of the equipment which the applicant proposes to use; and

(g) Applicable state and federal structural pesticide laws and regulations.

(4) Each applicant for a structural commercial operator's license shall have:

(a) At least two (2) years of verified structural pest control experience as an employee with a licensed firm authorized to do business in structural pest control. Experience shall be verified by the designated license holder of the licensed firm from which the applicant has obtained experience;

(b) At least three (3) years verifiable field experience with the Structural Pesticide Branch of the Department of Agriculture. Experience shall be verified by the director of the branch; or

(c) A bachelor's degree, master's degree, or a doctoral degree in entomology or an associated field from an accredited college or university, and one (1) year experience in structural pest control. Educational background shall be verified with official transcripts from the institution or institutions granting the degree.

(5) The department shall issue a structural commercial operator's license to the applicant in the categories and classifications for which the applicant has qualified if the department finds that the applicant has met the requirements of this chapter.

SECTION 9. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any individual to act as an employee of a structural licensed firm and use or supervise the use of structural pesticides or structural pesticide equipment without having obtained a structural commercial applicator's license from the department. The department shall require an annual fee of ten dollars ($10) for each structural commercial applicator's license issued.

(2) The department shall issue a structural commercial applicator's license to the applicant in those categories and classifications for which the applicant has qualified if the department finds the applicant has met the requirements of this chapter.

SECTION 10. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department shall by administrative regulations establish and administer a program to register and verify training of structural registered trained employees. The annual registration fee of a structural registered trained employee shall be five dollars ($5). Registration shall be made on a form provided by the department. The department shall classify, by categories and classifications within the categories, the registrations to be issued under this section. The program shall include but not be limited to:

(a) Employees of a licensed firm who sell structural pesticides, structural pesticides equipment or services, or who use or distribute structural pesticides and structural pesticides application equipment or give advice regarding the use of structural pesticides; and

(b) Individuals who are required to work under the direct supervision of a commercial or noncommercial applicator who at a work site use structural pesticides or structural pesticide application equipment.

(2) This section shall not apply to certified applicators or employees of a licensed firm who, as an incidental part of

their job, provide information or accept sales regarding the structural pesticides sold or the services provided by their firm.

SECTION 11. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for an individual to manage a structural branch office of a structural licensed firm within this state without being qualified by the department as a structural branch office manager. There shall be at least one (1) structural branch office manager employed at each structural branch office of the licensed firm by December 31, 1998. The department shall require an annual fee of twenty-five dollars ($25) for each structural branch office manager's license issued.

(2) Applicants for a structural branch officer manager's license shall have:

(a) At least one (1) year experience in structural pest control;

(b) A bachelor's degree, master's degree, or a doctoral degree in entomology or an associated field from an accredited college or university; or

(c) Two (2) years experience with the Department of Agriculture, Pesticide Division.

(3) If the applicant is a structural reserve commercial operator qualified in those categories and classifications needed to manage a branch office of a licensed firm for which application is being made, the department shall issue a branch office manager's license to that applicant without examination or fee.

SECTION 12. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for an individual to act or hold himself out as a structural noncommercial applicator or as the designated license holder of a licensed noncommercial firm without having obtained a structural noncommercial applicator's license from the department. The annual fee for a noncommercial operator designated license holder license shall be fifty dollars ($50). The annual fee for a noncommercial applicator license shall be ten dollars ($10).

(2) The department shall issue a noncommercial applicator's license that is restricted to the applicant's firm location and in the singular category and classification of general pest for which the applicant has qualified if the department finds that the applicant has met the requirements of this chapter.

(3) Applicants for structural noncommercial applicator's licenses that authorize noncommercial pest control shall be required to successfully complete a training program authorized by the department and present, to the department's satisfaction, proof of experience and education within the category and classification applied.

SECTION 13. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) In the event of death or incapacitation of a designated license holder for a licensed firm, all provisions and regulations of this chapter shall apply. The heirs, representatives, other persons, or legal entities that may have an interest in the licensed firm may continue the licensed firm operations up to a maximum of one (1) year without a designated licensed holder within its employ if application for a special operating conditions license is made to the department within thirty (30) days of the death or incapacitation of the designated license holder, and the department grants and issues a special operating conditions license.

(2) Upon a valid sale of a licensed firm, all provisions and regulations of this chapter shall apply. The purchaser of the licensed firm may continue the operations up to a maximum of one hundred twenty (120) days from the date of the close of the sale without a designated license holder within its employ if application for a special operating conditions license is made to the department within ten (10) days of the closing of the sale, and the department recognizes the sale as a valid sale and issues a special operating conditions license.

(3) If the designated license holder for a licensed firm ceases to be employed by a licensed firm for reasons other than death or incapacitation or the sale of the licensed firm, all provisions and regulations of this chapter shall apply. The licensed firm may continue its operations up to a maximum of ninety (90) days from the date of cessation of employment by the designated license holder if application for a special operating conditions license is made to the department within ten (10) days of the cessation of employment of the designated license holder, and the department grants and issues a special operating conditions license.

(4) During the time period provided for the exception of employment of a designated license holder, a full-time commercial applicator shall be in the employ of the licensed firm to supervise the use or distribution of structural pesticides; otherwise all firm operations shall immediately cease.

(5) A licensed firm may, by written request, solicit the department to temporarily waive the designated license holder or commercial applicator requirement and to grant a temporary emergency operating license or an extension of time beyond that provided for within this section for a period of time not to exceed sixty (60) days. Upon receipt of written request, the department may issue a written waiver of requirement or extension of time or issue a temporary emergency operating license for the period of time requested. Granting a request does not relieve the licensed firm from the other provisions and regulations of this chapter that apply.

(6) Upon denial, revocation, or expiration of any waiver or license granted under this section, all provisions and regulations of this chapter will apply, and a designated license holder shall be employed by the licensed firm or all firm operations must immediately cease.

(7) No special operating conditions license will be granted pursuant to subsections (1) to (5) of this section unless the applicant demonstrates that no pesticide application will be conducted by the licensed firm except under the direct supervision of an individual who meets all training and experience requirements for a structural commercial operating license and that application has been made for a license.

SECTION 14. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) All licenses issued under this chapter shall expire on January 1 of the year following issue unless revoked or suspended earlier by the department. Upon expiration, revocation, or suspension of a license, the licensee shall be prohibited from engaging in any of the activities permitted by the license until the license is renewed or reinstated by the department.

(2) Licenses issued by the department shall be renewed annually by application on a form provided by the department. Each application shall be accompanied by the annual license fee and proof of financial responsibility on a continuing basis. The department shall renew valid licenses annually without examination if all requirements of this chapter have been met by the applicant.

(3) Applications for a renewal of license that are not received by the department prior to February 1 of the year following issue shall be accompanied by the annual fee plus a late fee equal to twenty-five percent (25%) of the annual license fee before a renewal of license will be issued.

(4) Applications for a renewal of license that are not received by the department prior to March 1 of the year following issue shall not be renewed and all operations shall immediately cease.

SECTION 15. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department shall develop minimum training requirements for categories and classifications of structural operators, applicators, and registered trained employees.

(2) The department shall conduct training courses and shall publish information on the safe use of structural pesticides.

(3) The department shall, at least every two (2) years, review and update the license examinations given by the department and training courses approved or conducted by the department.

(4) The department shall revise its:

- *(a) License application forms;*
- *(b) Training courses; and*
- *(c) Educational materials;*

to include information on and require knowledge of the prevention and contamination of groundwater.

(5) Reexamination requirements of individuals licensed, registered, or who have obtained a permit under this chapter will be required every two (2) years, unless the individual has participated in eight (8) hours of department-approved continuing education training every two (2) years.

SECTION 16. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department shall by administrative regulations establish and administer a program to escrow, to an inactive status, licenses issued by the department. A license that is placed in escrow prohibits the licensee of the use permitted by that license.

(2) Escrow of license shall be made on a form provided by the department and be accompanied by:

- *(a) The license issued by the department;*
- *(b) Payment of a one-time recording fee of twenty-five dollars ($25); and*
- *(c) A signed request by the licensee, addressed to the director of pesticides, that the license submitted is to be made inactive and placed in escrow.*

(3) An inactive license in escrow shall not be required to be renewed annually if the annual escrow fee has been paid, or have evidence of financial responsibility, or maintain required continuing education training requirements.

(4) The department shall set the annual fee for escrow of license.

(5) Escrow of license expires annually on January 1 of the year following escrow.

(6) Escrow of license shall be renewed annually by application on a form provided by the department and be accompanied by the annual escrow of license fee. Applications and fees for renewal of escrow of license not received by the department prior to March 1 of the year following expiration of escrow shall not be renewed and the use permitted by the license shall be revoked.

(7) A license may be activated and removed from escrow as follows:

(a) Submission of a signed request by the licensee, addressed to the director of pesticides, that the license is to be removed from escrow and is to be placed into an active status; and

(b) Submission of proof that the licensee has participated in twelve (12) hours of department-approved continuing education training within twelve (12) months prior to the date of removal of license from escrow; submission of proof of financial responsibility as required by this chapter, and advance payment of license fees due for renewal of license for the current license year.

SECTION 17. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful to use or distribute structural pesticides or act as a commercial firm in this state without evidence of financial responsibility that is acceptable to the department. The department shall not issue or renew a firm license to an applicant unless evidence of financial responsibility is on file with the department in the form of a surety bond, an irrevocable letter of credit from a qualified financial institution, or a liability insurance policy, each of which shall be clearly conditioned to cover liability arising from use or distribution of structural pesticides and pest control services by the applicant or the applicant's employees.

(2) The amount of the irrevocable letter of credit from a qualified financial institution, a surety bond for each client, or a liability insurance policy required by this section shall be not less than two hundred thousand dollars ($200,000) combined single limit bodily injury and property damage. The evidence of financial responsibility shall be maintained at not less than the listed amount at all times. The department shall be notified by the surety, financial institution, or insurer of any reduction in the minimum financial amount required or of any cancellation of evidence of financial responsibility as soon as the surety, financial institution, or insurer becomes aware of the reduction or cancellation.

(3) Should the evidence of financial responsibility furnished expire without renewal, not meet the requirements of this chapter, or become unacceptable, for cause, to the department, the applicant or licensee shall within ten (10) days upon notice from the department execute and submit other evidence of financial responsibility acceptable to the department. Until the evidence of financial responsibility is acceptable to the department, the firm license issued shall be suspended and all structural pesticide operations shall cease.

(4) The financial responsibility requirement shall not apply to:

(a) Commercial operators, applicators, or registered trained employees employed by and acting on behalf of a firm if the firm has issued and the department has accepted evidence of financial responsibility; or

(b) Noncommercial operators or applicators.

(5) Nothing in this chapter shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use or distribution of structural pesticides even though the use or distribution conforms to the rules and administrative regulations of the department.

SECTION 18. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

The department shall require licensed firms to maintain reasonable records, specified by administrative regulations, with respect to the use or distribution of structural pesticides for the effective enforcement of this chapter. Records shall be kept for a period of five (5) years from the date of the use or distribution of the structural pesticide to which the records refer.

SECTION 19. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department shall provide for inspection and identification of equipment, vehicles, or machinery used by firms. A list of requirements that equipment, vehicles, or machinery must meet shall be determined by administrative regulation.

(2) All vehicles used by a firm for use or distribution of structural pesticides shall be required to display, and have securely affixed, the licensed firm license number in numbers at least two (2) inches high and the licensed firm name in letters at least two (2) inches high in a manner and location on vehicles as may be prescribed by the department.

(3) A noncommercial firm shall display the designated noncommercial operator's license number in numbers at least two (2) inches high in a manner and location on vehicles as may be prescribed by the department.

(4) A commercial licensed firm shall display and have securely affixed the capital letters L.P.C.O., meaning Licensed Pest Control Operator, followed by the designated license holder's license number in numbers at least two (2) inches high.

(5) Vehicles used as a temporary and incidental part of a licensed firm may display the required letters, numbers, and firm name on a removable sign in letters and numbers of at least two (2) inches in height and must be displayed and clearly visible to passersby.

SECTION 20. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

The department may cooperate or enter into formal agreements with any other agency or educational institution of this state or its subdivisions or with any agency of any other state or of the federal government for the purpose of carrying out the provisions of this chapter and of securing uniformity of regulations.

SECTION 21. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth hereby determines that the citizens of the state benefit from a system of safe, effective, and scientifically sound structural pesticides regulation. The Commonwealth further finds that a system of structural pesticide regulation that is consistent, coordinated, and comports with federal and state technical expertise is essential to the public health, safety, and welfare, and that local regulation of structural pesticides in a manner which conflicts with standards and requirements established under state or federal law does not materially assist in achieving those benefits.

(2) The Commonwealth recognizes the authority of city and county governments to enact ordinances and regulations relating to the public health, welfare, commerce, and the environment which may affect structural pest control and businesses engaged in application of such products, provided that such regulation or ordinance is supplemental to and not in conflict with standards and requirements established under state or federal law.

(3) Nothing in this section shall be construed to abrogate any authority afforded by the Kentucky Revised Statutes to any program cabinet established under KRS Chapter 12 or any state or federal mandated hazardous materials regulations or fire safety codes and comprehensive hazardous material management program.

(4) Any ordinances of any unit of local government now in effect or hereafter adopted that are in conflict with this section shall be void.

SECTION 22. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person or firm to engage in commercial structural pest control or to act as or hold himself out as a commercial structural pest control firm without a firm license authorizing commercial structural pest control and a commercial operator in its employ, authorized as its designated license holder, and licensed in structural pest control in at least the classifications of General Pest and Wood Destroying Organisms.

(2) The category of Commercial Structural Pest Control is divided into the singular classifications of, but not limited to, General Pest, Wood Destroying Organism, and Fumigation, with an examination and license required for each classification.

(3) Upon recommendation of the board, the department shall designate any additional categories and classifications with an examination and license required for each.

(4) No specific singular commercial structural license classifications shall be issued without first obtaining the classifications of General Pest and Wood Destroying Organism.

(5) Individuals who were issued a commercial license in the specific singular classification of Termite Control, General Pest Control, or Fumigation, on or before June 17, 1978, are exempt from the minimum requirements of subsection (1) of this section and may continue to perform structural pest control, but only in those specific singular classifications, providing all other requirements of this chapter are met and the license has remained valid. If a specific singular classification license lapses or is revoked for any reason, the specific singular classification shall not be reinstated and all current requirements of this chapter shall be met.

SECTION 23. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) There shall be established a nine (9) member Pest Control Advisory Board that shall consist of the following members:

- *(a) The president and the immediate past president of KPCA;*
- *(b) One (1) KPCA member who is a resident of the Commonwealth and active in the pest control industry, appointed by the Governor from a list submitted by the KPCA board of directors, who shall serve a two (2) year term;*
- *(c) The chair of the University of Kentucky's Department of Entomology or a designated representative of the chair;*
- *(d) One (1) member of the University of Kentucky's Department of Entomology appointed by the chair of that department;*
- *(e) Two (2) members of the department appointed by the Commissioner of Agriculture; and*
- *(f) Two (2) consumer members appointed by the Commissioner of Agriculture, who shall serve a two (2) year term.*

(2) If a vacancy occurs on the board, it shall be filled in the manner designated in this section.

(3) At its first meeting each year, the Pest Control Advisory Board, from among its members, shall select the following

officers, who shall serve for a term of one (1) year: a chair, who shall preside at all meetings and perform other duties incident to the office; a vice chair, who in the absence of the chair shall preside at all meetings and perform other duties incident to the office; and a secretary, who shall be responsible for providing to the board the official record of the minutes of the meetings and perform other duties incident to the office. These elected officers shall serve at the pleasure of the board.

(4) Five (5) members of the board shall constitute a quorum. Any action or order of the board shall require a quorum and the approval of a simple majority of the members present.

(5) Unless otherwise stipulated by the chair, meetings are to be held every two (2) months in Frankfort, Kentucky, on the first Thursday of the month, beginning with January. If the first Thursday of a meeting month falls on a holiday, the scheduled meeting shall take place on the immediate following Thursday. The secretary shall provide a notice of meeting to each board member at least ten (10) days in advance of the scheduled meeting day. The chair or any five (5) members of the board may call a special meeting by providing written notice to all board members at least ten (10) days in advance of the date of the special meeting, stating the date, time, place, and purpose of the special meeting. Only business as stated in the notice shall be acted upon at the special meeting.

(6) Members of the board shall serve without compensation. Board members who are not employees of the Commonwealth shall be entitled to reimbursement by the department for actual expenses incurred in carrying out the duties of the board.

SECTION 24. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

The Pest Control Advisory Board shall have the following duties:

(1) Review structural pest control and fumigation enforcement proceedings and make written recommendations for further action, if any, to the department;

(2) Hold hearings on the denial of an application for a license as authorized by this chapter;

(3) Review commercial operator license applications in the structural pest control classifications to ensure that the applicant meets state licensing requirements and to make recommendations regarding those applications to the department;

(4) Periodically review the state structural pest control licensing examinations;

(5) Assist the department in administering the licensing examinations for commercial operators and commercial and noncommercial applicators and to make recommendations to the department regarding the applicant's examination results;

(6) Assist the department in its review and update of the license application forms, examinations, training courses, and educational materials issued by the department;

(7) Serve as a resource group to keep the department informed of current technical advancements in the pest control industry;

(8) Recommend reasonable rules and regulations concerning the following matters:

(a) Standards of application and workmanship;

(b) Proper health and safety precautions;

(c) Prevention of pollution and contamination of land and groundwater by structural pest control firms, operators, applicators, and fumigators;

(d) Requirements for standardized structural pest control contracts; and

(e) Furnishing of reports and information necessary for the Pest Control Advisory Board to carry out the provisions of this chapter;

(9) Assist the department in establishing and formulating regulations, rules, or guidelines for the application of license, denial or revocation of license, and for assessing fines for violations of this chapter; and

(10) Assist the department in establishing and formulating guidelines for training of the department's field personnel and in any other matters relative to this chapter when requested by the department.

SECTION 25. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department shall, after denying an application for a license, if petitioned by the applicant, within ten (10) days of notification, schedule a hearing before the Pest Control Advisory Board. The department shall, at least fifteen (15) days prior to the date set for the hearing, notify the applicant and the Pest Control Advisory Board in writing of the exact reasons for denial and the date and place of the hearing. The written notice shall be served by delivery personally to the applicant, or by certified mail, return receipt requested, to the applicant's last known address.

(2) Within ten (10) days of the hearing, the board shall make a written recommendation to the department regarding the licensing of the applicant.

SECTION 26. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) Commercial operator licensing examinations authorizing structural pest control in the classifications of General Pest, Wood Destroying Organism, and Fumigation shall be given the second Tuesday in May and the second Tuesday in November unless the date is a holiday. In that case, the examination shall be given on the third Tuesday of the respective month.

(2) An applicant shall initially be allowed to take two (2) consecutive commercial operator licensing examinations in the classifications of General Pest, Wood Destroying Organism, or Fumigation. If the applicant has not passed the commercial operator licensing examination in the classifications of General Pest, Wood Destroying Organism, or Fumigation after the initial two (2) attempts, the applicant shall wait one (1) year and successfully complete a training course approved by the department before reapplying to take this examination a third time. If the applicant does not pass this examination on the third attempt or does not pass this examination on any subsequent attempt, the applicant must wait two (2) years and successfully complete a training course approved by the department between each attempt until successfully passing this commercial operator licensing examination.

(3) The commercial operator General Pest and Wood Destroying Organism examination shall consist of two hundred sixty (260) written questions and forty (40) identification specimens.

(4) The commercial operator Fumigation examination shall consist of one hundred (100) written questions and twenty (20) identification specimens.

(5) The branch office manager's license examination authorizing an individual to manage an office of a structural pest control commercial firm or a noncommercial operator's license examination authorizing an individual to be the designated license holder for a noncommercial firm shall consist of ninety (90) written questions and twenty (20) identification specimens. Applicants for these licenses who are unsuccessful in their first attempt to become licensed must complete a training course approved by the department before the next attempt and between each subsequent attempt until successfully passing the licensing examination.

(6) The commercial applicator and noncommercial applicator licensing examination authorizing an individual to use structural pesticides in structures shall consist of fifty (50) written questions and ten (10) identification specimens. Applicants for a commercial applicator or noncommercial applicator license who are unsuccessful in their first attempt to become licensed in structural pest control shall complete a training course approved by the department before the next attempt and between each subsequent attempt until successfully passing the licensing examination.

(7) A maximum of seven (7) hours in time shall be allowed for a commercial operator examination with five (5) hours of the time allowed for the General Pest and Wood Destroying Organism classifications and two (2) hours of the time allowed for the Fumigation classification.

(8) Time allowed for a structural branch office manager's, noncommercial operator's, commercial applicator's, or noncommercial applicator's licensing examination shall be set by administrative regulation.

SECTION 27. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

The department shall bring, or upon the request of the Commissioner of Agriculture to the Attorney General, for the Attorney General to bring, criminal or civil legal action, or bring an action for the recovery of the penalties provided for in this chapter, or bring an action for an injunction against any person who violates any provision of this chapter and who violates any order, determination, or administrative regulation of the department relating to this chapter.

SECTION 28. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) All hearings required by this chapter shall be held before the Attorney General or his designee and in accordance with KRS Chapter 13B. At the conclusion of the hearing, the hearing officer shall within thirty (30) days issue a final order and make a report to the Commissioner and a recommended order which shall contain a finding of fact and conclusion of law. If the Commissioner finds upon written request by the hearing officer that additional time is needed, the Commissioner may grant an extension. The hearing officer shall serve a copy of his report and recommended order upon all parties of record to the proceeding, and they shall be granted the right to file exceptions within ten (10) days of receipt. The Commissioner shall consider the report and recommended order and pass upon the case. The decision shall be served by mail upon all parties and shall be the final order of the Commissioner. The Commissioner may promulgate administrative regulations to implement this section.

(2) Appeals may be taken from all final orders of the Commissioner. Within thirty (30) days from the rendition of the final order an appeal may be taken to the Franklin Circuit Court. Parties affected by the order shall file in court a petition that fully states the grounds upon which a review is sought and assign all errors relied upon. The Commissioner shall be named respondent, and service shall be had on the Commissioner. Summons shall be issued upon the filing of the petition directing the Commissioner to send the entire record to the clerk of the court after certifying that the record is the entire original record. The record shall be filed by the clerk and considered by the court on review. The court shall hear the cause upon the record as certified by the Commissioner.

(3) Any licensee whose license is revoked under the provisions of this chapter shall not be eligible to apply for a new license until the time has elapsed from the date of the order revoking the license as shall be established by the department.

SECTION 29. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

Any person aggrieved by any action of the department may obtain a review of the action by filing in the Franklin Circuit Court within thirty (30) days of notice of the action a written petition praying that the action of the department be set aside. A copy of the petition shall be delivered to the department, and within sixty (60) days of receipt the department shall certify and file in the court a transcript of evidence received. The court shall have jurisdiction to affirm, set aside, or modify the action of the department, except that the findings of the department as to the facts, if supported by substantial evidence, shall be conclusive.

SECTION 30. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

The department shall by administrative regulation establish and administer a program to have informal settlement conferences and proceedings that are consistent with KRS Chapter 13B.

SECTION 31. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

The department may issue subpoenas to compel the attendance of witnesses or production of books, documents, and records anywhere in the state in any hearing affecting the authority or privilege granted by a license or permit issued under the provisions of this chapter.

SECTION 32. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of carrying out the provisions of this chapter, the department or any of its authorized employees may enter upon any public or private premises at reasonable times, in order to:

(a) Inspect the records, books, and documents regarding the use, distribution, manufacturing, reformulation, formulation, repackaging, or packaging of structural pesticides;

(b) Have access for the purpose of inspecting any equipment subject to this chapter and the premises on which the equipment is kept or stored;

(c) Inspect lands actually or reported to be exposed to structural pesticides;

(d) Inspect storage or disposal areas;

(e) Inspect or investigate complaints of injury to humans or land;

(f) Sample structural pesticides being applied or to be applied; and

(g) Inspect and copy any records required to be maintained in accordance with this chapter.

(2) If the department is denied access to any land where access was sought for the purposes set forth in this chapter, the department may apply to any court of competent jurisdiction for a search warrant authorizing access to the land. The court may, upon an application, issue the search warrant for the purposes requested.

SECTION 33. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department may suspend, pending inquiry, and, after opportunity for a hearing, the department may deny, suspend, revoke, or modify the provision of any license issued under this chapter if it finds that the licensee or his employee has committed any of the following acts:

(a) Made any material representation for the purpose of defrauding the public, or used any method or material that is not reasonably suited for the purpose for which it was employed by any licensed applicator or his solicitor or agent;

(b) Made a knowingly false or fraudulent claim through any media, misrepresenting the effect of material or methods to be utilized;

(c) Made a structural pesticide recommendation or application not in accordance with the label registered by the department under KRS 217.542 to 217.630;

(d) Applied known ineffective or improper materials or structural pesticides;

(e) Knowingly operated faulty or unsafe structural pesticide equipment or knowingly acted in a faulty, careless, or negligent manner;

(f) Failed, neglected, or refused to attend training courses approved by the department as specified by the Kentucky state plan;

(g) Refused or, after notice, neglected to comply with the provisions of this chapter, the administrative regulations promulgated under this chapter, or any lawful order of the department;

(h) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;

(i) Made false or fraudulent records, invoices, or reports;

(j) Engaged in the use or distribution of structural pesticides without a license for their use or distribution;

(k) Used fraud or misrepresentation in making an application for a license or renewal of a license;

(l) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;

(m) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(n) Knowingly made false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;

(o) Impersonated any state, county, or city inspector or official;

(p) Used structural pesticides inconsistent with conditions in the environment at and surrounding the site of the application, which the licensee knew or should have known about upon a reasonable investigation of these conditions;

(q) Stored or disposed of structural pesticides or structural pesticides containers by means other than those prescribed on the label or imposed by administrative regulations;

(r) Sold restricted-use pesticides without a valid license;

(s) Failed to maintain financial responsibility as required by this chapter;

(t) Refused or failed to pay any fine rendered against the licensed person, its employee, solicitor, or representative by reason of liabilities resulting from activities under this chapter;

(u) Violated any provision of this chapter or any administrative regulation promulgated by the department or any lawful order of the department;

(v) Sold a restricted-use pesticide to an unlicensed person;

(w) Has been convicted of a felony; or

(x) Acted as a licensed firm without being qualified by the department.

(2) Any licensee whose license is revoked under the provisions of this section shall not be eligible to apply for a new license until the time has elapsed from the date of the order revoking the license as established by the department, not to exceed two (2) years, or if an appeal is taken from the order of revocation, not to exceed two (2) years from the date of the order or final judgment sustaining the revocation.

SECTION 34. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) If any of the requirements of this chapter or administrative regulations promulgated under this chapter have not been complied with, the Commissioner shall cause a notice of violation to be issued upon the licensed firm and its designated license holder. The Commissioner shall set forth in his notice a reasonable time period, but not more than thirty (30) days, for the correction of the violation. If a violation has not been corrected within the period of time prescribed in the notice of violation, the Commissioner shall issue an order for immediate compliance and may assess the civil penalty provided for in Section 36 of this Act unless an extension has been requested in writing by the licensed firm or its designated license holder and the extension of time has been granted by the Commissioner. No extension shall exceed thirty (30) days in duration. The notice of violation shall be mailed to the licensed structural firm and its designated license holder by certified mail, return receipt requested, addressed to the designated address of the licensed firm address and its designated license holder as shown on department records. The notice of violation shall specify in what respect the licensed firm and its designated license holder has failed to comply with this chapter or administrative regulations promulgated under this chapter, and shall specify the period of time established for correction. If the licensed firm and its designated license holder have not complied with the requirements set forth in the notice of violation within the time limit allowed, the license may be revoked as provided in this chapter or the Commissioner may take any other action provided for under this chapter.

(2) The Commissioner shall develop a method for calculating the civil penalty for failure to correct a violation within the prescribed time period as authorized by this section, and the Commissioner shall promulgate a schedule of the civil penalties in an administrative regulation.

SECTION 35. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

All moneys collected as a result of licensing fees or civil penalties shall be deposited in the State Treasury to the credit of the revolving fund for the use by the Department of Agriculture, Division of Pesticides, in enforcing the provisions of this chapter, and for the expense of carrying out the duties and functions of the Pest Control Advisory Board.

SECTION 36. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any of the provisions of this chapter, who fails to perform any duties imposed by this

chapter, or who violates any determination, order, or administrative regulation of the department shall be liable for a civil penalty not to exceed one thousand dollars ($1,000) for each violation and a civil penalty not to exceed one thousand dollars ($1,000) for each day during which the violation continues, and in addition, may be enjoined from continuing the violation as provided in this section. The penalties shall be recoverable in an action brought in the name of the Commonwealth by the department, or upon the department's request, by the Attorney General. The amount of the civil penalty shall depend on a case-by-case basis assessment of the degree of fault, the degree of harm, past compliance history, good faith effort to remedy the violation, and the financial benefit, if any, derived from the violation.

(2) Any person who fails to correct a violation within the time period prescribed by administrative regulation for the correction shall be assessed a civil penalty of not less than one hundred dollars ($100). Each day of continued violation may be deemed a separate violation for the purpose of penalty assessment. The Commissioner shall develop a method for calculating monetary penalties and shall promulgate a schedule for the penalties in an administrative regulation. The penalty shall be recoverable in an action brought in the name of the Commonwealth. A license holder shall have thirty (30) days from notification of the penalty assessment to request a hearing.

(3) It shall be the duty of the department or, upon the request of the Commissioner, the Attorney General, to bring an action for the recovery of the penalties provided in this section, and to bring an action for an injunction against any person violating any provision of this chapter or violating any order, determination, or administrative regulation of the department. In any action, any finding of the department shall be prima facie evidence of the fact or facts found in the action.

(4) Any person who willfully violates any of the provisions of this chapter or any determination, order, or administrative regulation of the department shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment for a term of not more than one (1) year, or by both fine and imprisonment for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.

Section 37. KRS 217B.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter,[~~ or~~] who fails to perform any duties imposed by ***this chapter***[~~those sections~~], or who violates any determination,[~~ or~~] order***, or administrative regulation*** of the department[~~ promulgated pursuant thereto~~] shall be liable to a civil penalty of not to exceed the sum of one thousand dollars ($1,000) for ***each***[~~said~~] violation, and an additional civil penalty of not to exceed one thousand dollars ($1,000) for each day during which ***the***[~~such~~] violation continues, and in addition, may be enjoined from continuing ***the***[~~such~~] violations as[~~ hereinafter~~] provided in this section. ***The***[~~Such~~] penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the department, or, upon the department's request, by the Attorney General.

(2) Any person who fails to ***correct***[~~abate~~] a violation within the time period prescribed by administrative regulation for the ***correction***[~~abatement~~] shall be assessed a civil penalty of not less than one hundred dollars ($100). Each day of ***continued***[~~continuing~~] violation may be deemed a separate violation for the purpose of penalty assessment. The Commissioner shall develop a method for calculating monetary penalties and shall promulgate a schedule of the penalties in an administrative regulation. The penalty shall be recoverable in an action brought in the name of the Commonwealth. All sums of recovery shall be placed in the State Treasury. A license holder shall have thirty (30) days from notification of the penalty assessment to request a hearing.

(3) It shall be the duty of the department[~~,~~] or, upon the request of the Commissioner,[~~ of Agriculture, of~~] the Attorney General, to bring an action for the recovery of the penalties[~~ hereinabove~~] provided ***in this section***[~~for~~],and to bring an action for an injunction against any person violating[~~ or threatening to violate~~] any provision of this chapter or violating[~~ or threatening to violate~~] any order,[~~ or~~] determination***, or administrative regulation*** of the department[~~ promulgated pursuant thereto~~]. In any[~~ such~~] action, any finding of the department shall be prima facie evidence of the fact or facts found ***in the action***[~~therein~~].

(4) Any person who[~~ shall~~] willfully ***violates***[~~violate~~] any of the provisions of this chapter, or any determination,[~~ or~~] order, ***or administrative regulation*** of the department[~~ promulgated pursuant to those sections which have become final~~] shall be guilty of a misdemeanor and upon conviction[~~ thereof~~] shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year, or by both fine and imprisonment for each separate violation. Each day upon which ***a***[~~such~~] violation occurs shall constitute a separate violation.

[~~(5) Any person who violates any of the provisions of KRS 217B.515 to 217B.585 or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty of not to exceed the sum of one thousand dollars ($1,000) for said violation, and an additional civil penalty of not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided for in KRS 217B.585. Such penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the department, or upon the~~

~~department's request by the Attorney General.~~

~~(6) Any person who shall willfully violate any of the provisions of KRS 217B.515 to 217B.585 or any determination or order of the department promulgated pursuant to those sections which have become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which the violation occurs shall constitute a separate violation.~~]

Section 38. The following KRS sections are repealed:

217B.500 Definitions.

217B.505 Pest Control Advisory Board.

217B.510 Powers and duties of board.

217B.515 Structural pest control licenses.

217B.520 Applicator's or manager's license.

217B.525 Application for license.

217B.530 Examinations for licenses.

217B.535 Applicator license holder restrictions -- Licenses not transferable or assignable -- Effect of sale of pest control firm -- Annual registration.

217B.540 Hearing on denial of application.

217B.545 Suspension, revocation, or modification of applicator's or manager's license -- Procedure -- Waiting period for eligibility for reapplication.

217B.550 Violations.

217B.555 Pesticide storage restrictions -- Restricted use pesticides.

217B.560 Training of personnel.

217B.565 Identification of vehicles -- Employee identification cards.

217B.570 Burden of responsibility.

217B.575 Notification of change of address.

217B.580 Disposition of fees.

217B.585 Actions for enforcement.

The Committee Substitute to **HB 483** is as follows:

AN ACT relating to the "Kentucky Fertilizer and Pesticide Storage, and Pesticide Use and Application Act."

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217B.040 is amended to read as follows:

For the purposes of this chapter, unless the context requires otherwise:

(1) "Pest" means:

(a) Any insect, snail, slug, rodent, nematode, fungus, weed; and

(b) Any other form of plant or animal life, or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest, or which the department declares to be a pest;

(2) "Pesticide" means:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and

(c) Any substance or mixture of substances intended to be used as a spray adjuvant;

(3) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission;

(4) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues;

(5) "Plant regulator" means any substance or mixture of substances intended through physiological action to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;

(6) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six (6) legged, usually winged forms, as for example beetles, bugs, bees, wasps, and flies, and includes other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as for example spiders, mites, ticks, centipedes, and wood lice, and also nematodes and other worms, and any other invertebrates which are destructive, constitute a liability, and may be classed as pests;

(7) "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;

(8) "Fertilizer" means any substance containing one (1) or more recognized plant nutrients, which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other products exempted by administrative regulation;

(9) "Weed" means any plant which grows where not wanted;

(10) "Nematode" means invertebrate animals of the phylum Nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts, and may also be called nemas or eelworms;

(11) "Snails or slugs" include all harmful mollusks;

(12) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not;

(13) "Equipment" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in the land, but shall not include any pressurized hand-sized household device used to apply any pesticide;

(14) "Restricted use pesticide" means any pesticide classified for restricted use by the administrator ***of***~~[,]~~ EPA, or by administrative regulation of the department;

(15) "Engage in business" means any application of pesticide by any person upon lands of another;

(16) "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, devices, and contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation;

(17) "Pesticide applicator" means any ***individual employed by a pesticide operator to apply pesticides. The term does not include trainees***~~[person who owns or manages a pesticide application business which is engaged in the business of applying pesticides upon the lands of another]~~;

(18) "Pesticide operator" means any ***individual who owns or manages a pesticide application business which is engaged in the business of applying pesticide upon the lands of another***~~[person employed by a pesticide applicator who operates equipment for the application of pesticides or applies pesticides manually. This term does not include employees who work only under direct "on the job" supervision of a licensed pesticide applicator or licensed pesticide operator]~~;

(19) "Pest control consultant" means any person who, for a fee, offers or supplies technical advice, supervision, or aid, or recommends the use of specific pesticides for the purpose of controlling insect pests, plant diseases, weeds, and other pests;

(20) "Public operator" means any ***individual employed***~~[person in charge of any equipment used]~~ by municipal corporations, public utilities,~~[or]~~ other governmental agencies***, golf courses, or business or commercial operations who as a part of his job responsibility, is in charge of any equipment used to apply pesticides or is required to make any application of pesticides or fertilizer to lands owned, operated, controlled, or managed by his employer***~~[applying pesticides]~~;

(21) "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests; including, but not limited to mammals, birds, and aquatic life;

(22) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive, and, having received, deliver or offer to deliver any pesticides in this state excepting internal distribution within a company or organization;

(23) "EPA" means the United States Environmental Protection Agency;

(24) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or to any of its containers or wrappers;

(25) "Restricted use pesticide dealer" means any person who distributes restricted use pesticides except manufacturers of restricted use pesticides who distribute their products solely to "restricted use pesticide dealers";

(26) "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the

application or to the effect thereof, and which is in a package or container separate from that of the other pesticide with which it is to be used;[~~ and~~]

(27) "Commissioner" means the Commissioner of the Department of Agriculture***;***

(28) "Full service firm" means any person that engages in the storage of bulk fertilizer or restricted use pesticides for the purpose of redistribution or direct resale, or engages in the business of applying any pesticide to the lands of another;

(29) "Trainee" means a person who has been employed by a firm for less than ninety (90) days and is working under the direct supervision of a licensed operator or applicator;

(30) "Direct on-the-job supervision" means having a licensed operator or licensed applicator physically on-site and directly supervising or training an individual or individuals in the application of a pesticide;

(31) "Branch office" means any location of a full service firm other than its designated principal place of business location but does not include on- and off-premises bulk storage or receiving warehouses used solely for the purpose of customer order filling;

(32) "Applicant" means any person applying for a license or registration under this chapter;

(33) "Pesticide dealer" means any person who is in the business of selling restricted use pesticides directly to the final user or is substantially in the business of selling any pesticides directly to the final user;

(34) "Dealer agent" means an individual who sells pesticides and makes recommendations for the use and application of pesticides to the final user;

(35) "Substantially in the business" means that pesticide sales equal or exceed five percent (5%) of the person's gross annual sales; and

(36) "Pesticide state management plan" means a plan that would be required under the U.S. Environmental Protection Agency plan rule to protect the current and future beneficial uses of water through education and best management practices.

Section 2. KRS 217B.050 is amended to read as follows:

(1) The department shall administer and enforce the provisions of this chapter and issue administrative regulations to carry out the provisions of this chapter and in the administrative regulations may prescribe methods to be used in the storage of fertilizers and pesticides, and application of pesticides. Where the department finds that the administrative regulations are necessary to carry out the purpose and intent of this chapter, the administrative regulations may relate to the time, place, manner, and method of storage and application of the pesticides and storage of fertilizers and pesticides, may restrict or prohibit use of pesticides in designated areas during specified periods of time, and shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to:

(a) Plants, including forage plants, on adjacent or nearby lands;

(b) Wildlife in the adjoining or nearby areas;

(c) Fish and other aquatic life in waters in reasonable proximity to the area to be treated; and

(d) Pollinating insects, animals, or persons.

(2) In issuing the administrative regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of this state and of the federal government.

(3). The department may by administrative regulation adopt a list of "restricted use pesticides" for the state or for designated areas within the state if it finds that the characteristics of the pesticides require restricting their use to prevent injury on lands other than the land to which they are applied or to persons, animals, crops, or pests or vegetation other than the pests or vegetation which they are intended to destroy. For the purpose of uniformity of requirements between the states and the federal government, the department may adopt the list of "restricted use pesticides" as established by the Environmental Protection Agency or other federal or state agencies.

(4) The department may establish additional classifications of applicator licenses as required for conformance with the Federal Environmental Pesticide Control Act of 1972. The classifications may include private farmer applicators, commercial establishment applicators, and government employee applicators not specifically mentioned in this chapter. The administrative regulations may specify licensing conditions, procedures and fees not to exceed those fees specified for other licensees under this chapter.

(5) The department may by administrative regulation develop and implement pesticide state management plans if required by the federal government.

Section 3. KRS 217B.060 is amended to read as follows:

The department may classify licenses to be issued under this chapter. ***The***[~~Such~~] classifications may include but not be limited to ornamental or agricultural pesticide applicators, or right-of-way pesticide applicators. Separate classifications may be specified as to ground, aerial, or manual methods used by any licensee to apply pesticides. Each classification shall be subject to separate testing procedures and requirements.[~~ No person shall be required to pay an additional license fee if such person desires to be licensed in one (1) or all of the license classifications provided for by the department under the authority of this section.~~]

Section 4. KRS 217B.070 is amended to read as follows:

(1) No person shall engage in the business of applying pesticides to the lands of another within this state at any time without a pesticide ***operator's***[~~applicator's~~] license issued by the department. The department shall require an annual fee of ***twenty-five dollars (***$25***)*** for each pesticide ***operator's***[~~applicator's~~] license issued and, in addition, an inspection fee of ***ten dollars (***$10***)*** for each aircraft to be licensed and ***ten dollars (***$10***)*** for each piece of ground equipment to be licensed. Should any equipment fail to pass inspection under KRS 217B.160, making it necessary for a second inspection to be made, the department shall require an added inspection fee of ***five dollars (***$5***)***. In addition to the required inspection, unannounced inspections may be made without charge to determine if equipment is properly calibrated and maintained in conformance with laws and regulations.

(2) Application for a license shall be made in writing to the department on a designated form obtained from the department. Each application for a license shall contain information regarding the applicant's qualifications and proposed operations ***and***[~~,~~] license classification or classifications the applicant is applying for, and shall include the following:

(a) The full name of the person applying for the license;

(b) If the applicant is an individual, receiver, trustee, firm, partnership, association, corporation, or other organized group of persons whether or not incorporated, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation, or group;

(c) The principal business address of the applicant in the state and elsewhere; ***and***

(d) The name and address of a person, who may be the Secretary of State, whose domicile is in the state, and who is authorized to receive and accept services of summons and legal notice of all kinds for the applicant;

(e) The model, make, horsepower, and size of any equipment used by the applicant to apply pesticides;

(f) Any other necessary information prescribed by the department.

(3) The department shall require an applicant for a license to show upon examination that he possesses adequate knowledge concerning the proper use and application of pesticides in the classifications he has applied for, manually or with the various equipment that he may have applied for a license to operate. The examination shall require a working knowledge of***, but not be limited to, the following***:

(a) The proper use of the equipment.

(b) The hazards that may be involved in applying pesticides, including:

1. The effect of drift of the pesticides on adjacent and nearby lands and other nontarget organisms;

2. The proper meteorological conditions for the application of pesticides and the precautions to be taken therewith;

3. The effect of the pesticides on plants or animals in the area, including the possibility of damage to plants or animals or the possibility of illegal pesticide residues resulting on them;

4. The effect of the application of pesticides to wildlife in the area, including aquatic life;

5. The identity and classification of pesticides used and the effects of their application in particular circumstances; ***and***

6. The likelihood of contamination of water or injury to persons, plants, livestock, pollinating insects, and vegetation.

(c) Calculating the concentration of pesticides to be used in particular circumstances.

(d) Identification of pests to be controlled***,*** by common name only***,*** and the damages caused by ***the***[~~such~~] pests.

(e) Protective clothing and respiratory equipment required during the handling and application of pesticides.

(f) General precautions to be followed in the disposal of containers as well as the cleaning and decontamination of the equipment which the applicant proposes to use.

(g) Applicable state and federal pesticide laws and regulations.

(4) If the department finds the applicant qualified to apply pesticides in the classifications he has applied for and, if the applicant files the bond or insurance required under KRS 217B.130, and if the applicant applying for a license to engage in aerial application of pesticides has met all of the requirements of the Federal Aviation Agency and the Transportation Cabinet to operate the equipment described in the application, the department shall issue a pesticide applicator license limited to the classifications for which he is qualified, which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior thereto by the department for cause or the financial security required under KRS 217B.130 is not dated to expire at an earlier date, in which case ***the***[~~said~~] license shall be dated to expire upon expiration date of ***the***[~~said~~] financial security.

(5) No license shall be issued unless the applicant holds a valid certification number within this category.

(6) No license shall be issued unless the applicant is registered as a full service firm or is employed by a person who is registered as a full service firm.

Section 5. KRS 217B.080 is amended to read as follows:

(1) It shall be unlawful for any person to act as an employee of a pesticide ***operator***~~[applicator]~~ and apply pesticides manually or as the ***applicator***~~[operator]~~ directly in charge of any equipment which is licensed or should be licensed under the provisions of this chapter for the application of any pesticide, without having obtained an ***applicator's***~~[operator's]~~ license from the department. ***The applicator's***~~[Such an operator's]~~ license shall be in addition to any other license or permit required by law for the operation or use of ***the***~~[any such]~~ equipment. Any person applying for ***the applicator's***~~[such an operator's]~~ license shall file an application on a form prescribed by the department on or before January 1 of each year. Application for a license to apply pesticides shall be accompanied by a license fee of ***ten dollars (***$10***)***. The provisions of this section shall not apply to any individual who has passed the examination provided for in subsection (3) of KRS 217B.070, and is a licensed pesticide ***operator***~~[applicator]~~. If the department finds the applicant qualified to apply pesticides in the classifications he has applied for after examinations as provided for in subsection (3) of KRS 217B.070, and if the applicant applying for a license to engage in aerial applications of pesticides has met all of the requirements of the Federal Aviation Agency and the Transportation Cabinet to operate the equipment described in the application, the department shall issue a pesticide ***applicator***~~[operator]~~ license limited to the classifications for which he is qualified which shall expire at the end of the calendar year of issue unless it has been revoked or suspended prior thereto by the department for cause as provided for in KRS 217B.120.

(2) No license shall be issued unless the applicant holds a valid certification number within this category.

(3) No license shall be issued to the applicant unless the applicant is employed by a person who holds a valid operator's license.

Section 6. KRS 217B.090 is amended to read as follows:

(1) Public operators~~[Municipal corporations, and public utilities, or any other governmental agency except state agencies]~~ shall be subject to the provisions of this chapter and ***administrative regulations***~~[rules]~~ adopted thereunder***.***~~[; the public operator in charge of any equipment used by any municipal corporations, public utilities, or any governmental agencies, shall be subject to the provisions of KRS 217B.070(3) and 217B.080, and]~~ The department shall issue a limited license without a fee to ***the***~~[such]~~ public operators~~[which shall be valid only when such public operators are acting as operators on equipment used by such entities]~~. ***A limited license shall be valid, only when the public operator is acting as operator on equipment provided by his employer used in the application of pesticides or fertilizer or in any application of pesticides or fertilizer used in the course of his employment by his employer. The employer of a public operator shall be subject to legal recourse by any person damaged by the application of any pesticide or fertilizer, and the action may be brought in the county where the damage or some part thereof occurred.*** Government research personnel shall be exempt from this licensing requirement when applying pesticides to experimental plots.~~[Such agencies, municipal corporations, and public utilities, shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred.]~~

(2) No license shall be issued unless the applicant holds a valid certification number within this category.

(3) A limited license shall not be upgraded without retesting.

Section 7. KRS 217B.100 is amended to read as follows:

(1) No person shall perform services as a pest control consultant without first procuring from the department a license in the classifications he has applied for under KRS 217B.060. Application for a license shall be on a form prescribed by the department and shall include the applicable information stipulated in subsection (2) of KRS 217B.070. The application for a license shall be accompanied by an annual fee of ***fifty dollars (***$50***)***.

(2) Each applicant for a pest control consultant's license shall be required to present to the department satisfactory evidence of training and experience providing a basic background to understand pest control principles. ***The***~~[Such]~~ applicant shall be required to pass satisfactorily a written examination to be prescribed by the department to demonstrate the applicant's specific knowledge under subsection (3) of KRS 217B.070.

(3) If an applicant provides a copy of a valid Certified Crop Advisor certification to the department, the test and fee for a consultant license may be waived.

Section 8. KRS 217B.103 is amended to read as follows:

(1) The department may suspend~~[for not longer than ten (10) days]~~, pending inquiry, and, after opportunity for a hearing, the department may deny, suspend, revoke, or modify the provision of any license issued under KRS 217B.100 if it finds that the applicant or licensee or his employee has committed any of the following acts, each of which is declared to be a violation of this section:

(a) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized or sold;

(b) Made a pesticide recommendation not in accordance with the label registered pursuant to KRS 217.541 to 217.640;

(c) Violated any provision of this chapter or any ***administrative***[~~rule or~~] regulation adopted by the department or of any lawful order of the department;

(d) Failed to pay the original or renewal license fee when due, and ***continued***[~~continue~~] to sell restricted use pesticides without paying the license fee, or sold restricted use pesticides without a license;

(e) Was guilty of gross negligence, incompetency***,*** or misconduct in acting as a pesticide dealer;

(f) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;

(g) Made false or fraudulent records, invoices, or reports;

(h) Used fraud or misrepresentation in making an application for a license or renewal of a license, or in selling or offering to sell restricted use pesticides;

(i) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license;

(j) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with[~~ such~~] a licensed or unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(k) Impersonated any state, county, or city inspector or official;

(l) Stored or disposed of containers or pesticides by means other than those prescribed on the label or adopted regulations***; or***

(m) Failed to comply with the provisions of Section 19 of this Act.

(2) Any licensee whose license is revoked under the provisions of this section shall not be eligible to apply for a new license[~~ hereunder~~] until such time has elapsed from the date of the order revoking ***the***[~~said~~] license as established by the department, not to exceed two (2) years, or if an appeal is taken from ***the***[~~said~~] order or revocation, not to exceed two (2) years from the date of the order or final judgment sustaining ***the***[~~said~~] revocation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person to act in the capacity of, or offer to engage in the business of, advertise as, or assume to act as a full service firm within this state anytime without having registered as a full service firm with the department.

(2) No person shall be registered as a full service firm without proof of financial responsibility as required in Section 16 of this Act.

(3) Application for a full service firm registration shall be in the form and shall contain the information prescribed by the department. Each application shall be accompanied by a fee of fifty dollars ($50). All registrations under this section shall expire on December 31. The registration shall be renewed annually upon application to the department, accompanied by a fee of fifty dollars ($50), on or before the first of January of the calendar year for which the registration is issued.

(4) A full service firm shall register each branch office location. The fee for a branch office registration shall be twenty-five dollars ($25) per branch office location.

(5) Application for a branch office registration shall be in the form and shall contain the information prescribed by the department. Each application shall be accompanied by a fee of twenty-five dollars ($25). All registrations issued under this section shall expire on December 31. The registration for a branch office may be renewed annually upon application to the department, when the application is accompanied by a fee of twenty-five dollars ($25) for each registration, on or before the first of January of the calendar year for which the registration is issued. No branch office registration may be issued unless the applicant is registered as a full service firm.

(6) The department shall issue to each applicant who satisfies the requirements of this section a registration which entitles the applicant to conduct business described in the application for the calendar year for which the registration is issued.

(7) The department may prescribe administrative regulations requiring certain operational and secondary containment actions that pertain to the storage of pesticides and fertilizer.

Section 10. KRS 217B.105 is amended to read as follows:

(1) No person shall act in the capacity of a pesticide dealer, or shall engage or offer to engage in the business of, advertise as, or assume to act as a[~~ restricted use~~] pesticide dealer unless he is ***registered with the department***[~~licensed annually~~

~~as provided in this section~~]. A separate ***registration***[~~license~~] and fee shall be required for each location or outlet from which[~~ restricted use~~] pesticides are distributed ***except that application for registration of all locations under common ownership may be made on a single form***.

(2) Application for a pesticide dealer ***registration***[~~license~~] shall be in the form and shall contain the information prescribed by the department. Each application shall be accompanied by a fee of ***twenty-five***[~~five~~] dollars ***($25)***[~~($5)~~]. All ***registrations***[~~licenses~~] issued under this section shall expire on December 31[~~ of the year for which they are issued~~]. The ***registration***[~~license~~] for a pesticide dealer may be renewed annually upon application to the department, accompanied by a fee of ***twenty-five***[~~five~~] dollars ***($25)***[~~($5)~~] for each ***registration***[~~license~~], on or before the first day of January of the calendar year for which the license is issued.

(3) The department shall issue to each applicant who satisfies the requirements of this section a ***registration***[~~license~~] which entitles the applicant to conduct the business described in the application for the calendar year for which the ***registration***[~~license~~] is issued[~~, unless the license is sooner revoked or suspended~~].

(4) The department shall prescribe ***administrative*** regulations requiring[~~ restricted use~~] pesticide dealers to maintain[~~ such~~] records with respect to their operations as it determines are necessary for the effective enforcement of this chapter. ***The***[~~Such~~] records shall include, but not be limited to: brands and amounts of restricted use pesticides sold; ***and*** buyer's name, address***,*** and applicator's license number; provided that, no records required under this section shall extend to financial data, sales data, other than amount and shipment data, pricing data***,*** and personnel data. ***The***[~~Such~~] records are to be retained for a period of two (2) years from the time of sale. For the purposes of enforcing the provisions of this chapter, any pesticide dealer shall, upon request of the department, furnish***,*** or permit the department at all reasonable times to have access to, and to copy, records as required by this section.

Section 11. KRS 217B.107 is amended to read as follows:

Each pesticide dealer shall be responsible for the actions of every person who acts as his employee or agent in the solicitation or sale of[~~ restricted use~~] pesticides, and in all claims and recommendations for use or application of[~~ restricted use~~] pesticides.

SECTION 12. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish a licensure program for dealer agents. The department shall require an applicant for licensure to show upon examination that the applicant possesses adequate knowledge concerning the proper use and application of pesticides.

(2) Application for a dealer agent license shall be in the form and shall contain information prescribed by the department. Each application shall be accompanied by a fee of five dollars ($5). All licenses issued under this section shall expire on December 31 of each year. The license for a dealer agent may be renewed annually upon application to the department, and the application shall be accompanied by a fee of five dollars ($5) for each license, on or before the first day of January of the calendar year for which the license is issued.

(3) The department shall issue to each applicant who satisfies the requirements of this section a license which entitles the applicant to hold himself or herself out as a licensed dealer agent.

(4) No person shall hold himself or herself out as a licensed dealer agent unless the person is licensed as provided for in this section.

(5) No person shall sell or make recommendations for the use or application of restricted use pesticides unless the person is licensed as provided for in this section.

(6) No license shall be issued unless the applicant holds a valid certification number within this category.

SECTION 13. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish and administer a program to register trainees.

(2) A trainee shall be registered with the department. It shall be unlawful for a trainee to act as an employee of a firm and apply pesticides manually, or as the applicator directly in charge of any equipment which is licensed or should be licensed under the provisions of this chapter for the application of any pesticide, without being registered with the department and being under the direct on-the-job supervision of an operator or applicator licensed by the department. The trainee registration shall be in addition to any other license or permit required by law for the operation or use of any such equipment. Any person applying for a trainee registration shall file by phone or written application prescribed by the department before employment begins.

(3) There shall be a five dollar ($5) charge for this registration by the department.

(4) Trainee registration shall not be renewed.

Section 14. KRS 217B.110 is amended to read as follows:

(1) If the application for renewal of any license ***or registration*** provided for in this chapter is not filed prior to March 1 in any year, a penalty of twenty-five percent (25%) shall be assessed and added to the original fee and shall be paid by the applicant before the renewal[~~ license~~] shall be issued; ***the***[~~such~~] penalty shall not apply if the applicant furnishes an affidavit certifying that he has not engaged in the business subsequent to the expiration of his license ***or registration***.

(2) Any person holding a current valid license may renew ***the***[~~such~~] license for the next year without taking another examination unless the department determines that new knowledge related to classifications for which the applicant has applied makes a new examination necessary. However, if the license is not renewed by ***April***[~~June~~] 1 of each year then ***the***[~~such~~] licensee shall again be required to take another examination.

Section 15. KRS 217B.120 is amended to read as follows:

The department may ***assess civil penalties in accordance with Section 20 of this Act or may delay issuing,*** suspend, revoke, or modify the provision of any ***license or registration***[~~applicator's, operator's, or consultant's license~~] issued under this chapter, if it finds that the applicant or ***holder***[~~licensee~~] has committed any of the following acts, each of which is declared to be a violation of this chapter:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;

(2) Made a pesticide recommendation or application not in accordance with the label registered by the department under KRS 217.541 to 217.640;

(3) Applied known ineffective or improper materials;

(4) Operated faulty or unsafe equipment;

(5) Operated in a faulty, careless, or negligent manner;

(6) Refused or, after notice, neglected to comply with the provisions of this chapter, the ***administrative regulations***[~~rules~~] adopted hereunder, or of any lawful order of the department;

(7) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;

(8) Made false or fraudulent records, invoices, or reports;

(9) Engaged in the business of the application of a pesticide without having a licensed applicator or operator in direct "on-the-job" supervision;

(10) Operated unlicensed equipment;

(11) Used fraud or misrepresentation in making an application for[~~ a license~~] or renewal of a license ***or registration***;

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or ***registration***[~~permit~~];

(13) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with[~~such~~] a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land;[~~ or~~]

(15) Impersonated any state, county, or city inspector or official***;***[~~.~~]

(16) Made a sale of, or distributed a restricted use pesticide to an uncertified applicant;

(17) Failed to obtain any license or registration required by this chapter;

(18) Failed to obtain or maintain financial responsibility required by this chapter;

(19) Failed to comply with the provisions of Section 19 of this Act;

(20) Failed to provide "direct on-the-job supervision" of a trainee by a licensed operator or applicator in the application of a pesticide;

(21) Failed to follow notification and information requirements in accordance with Section 23 of this Act including:

(a) Failure to provide the customer with written information prior to application;

(b) Failure to place lawn marker;

(c) Failure to meet minimum requirements for lawn marker;

(d) Failure to furnish customer proper information application; or

(e) Failure to furnish proper notification of application when requested;

(22) Failed to follow notification and information requirements in accordance with Section 24 of this Act including:

(a) Failure to place lawn marker immediately after application;

(b) Failure to meet minimum requirements for lawn marker; or

(c) Failure to furnish prior notification of application when requested.

Section 16. KRS 217B.130 is amended to read as follows:

(1) The department shall not issue a ***"full service firm" registration***[~~pesticide applicator license in the category of right-of-way pest control or in any aerial pesticide application category~~] until the applicant has furnished evidence of financial

responsibility with the department consisting either of a surety bond or a liability insurance policy, or certification thereof, protecting persons who may suffer legal damages as a result of the ***applicant's actions***[~~applicant. All other categories shall be exempt from the requirement to furnish financial responsibility~~].

(2) The amount of the surety bond or liability insurance as provided for in this section shall be not less than one ***million***[~~hundred thousand~~] dollars ***($1,000,000)***[~~($100,000) for public liability and not less than twenty-five thousand dollars ($25,000) for property damage, including loss or damage arising out of the actual use of any pesticide~~]. ***The***[~~Such~~] surety bond or liability insurance shall be maintained at not less than ***this amount***[~~those amounts~~] at all times during the licensed period. The department shall be notified ten (10) days prior to any reduction at the request of the applicant or cancellation of ***any***[~~such~~] surety bond or liability insurance by the surety or insurer. The total and aggregate of the surety and insurer for all claims shall be limited to the face of the bond or liability insurance policy. The department may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding one thousand dollars ($1,000) for all applicators for the total amount of liability insurance or surety bond required ***in this section***[~~herein~~]. If the applicant has not satisfied the requirements of the deductible amount in any prior legal claim, ***the***[~~such~~] deductible clause shall not be accepted by the department unless ***the***[~~such~~] applicant furnishes the department with a security bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his application of pesticides.

(3) Should the surety furnished become unsatisfactory, ***the***[~~said~~] applicant shall upon notice execute a new bond or insurance and ***if***[~~shall~~] he ***fails***[~~fail~~] to do so, the department shall cancel ***the registration***[~~his license~~] and it shall be unlawful thereafter for ***that***[~~such~~] person to engage in ***the***[~~said~~] business of applying pesticides until the bond or insurance is brought into compliance with the requirements of subsection (2) of this section and ***the registration***[~~his license~~] is reinstated by the department.

(4) Nothing in this chapter shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though ***the***[~~such~~] use conforms to the ***administrative***[~~rules and~~] regulations of the department.

Section 17. KRS 217B.140 is amended to read as follows:

(1) The person claiming damages from pesticide application shall have filed with the department a written statement claiming that he has been damaged, on a form prescribed by the department***,*** within sixty (60) days after the date that damages occurred, or prior to the time that twenty-five percent (25%) of a crop damaged ***has***[~~shall have~~] been harvested. ***The***[~~Such~~] statement shall contain, but shall not be limited ***to***[~~thereto~~], the name of the person responsible for the application of ***the***[~~said~~] pesticide, the name of the owner or lessee of the land on which the crop is grown and for which damages are claimed***,*** and the date on which it is alleged that the damage occurred. The department shall prepare a form to be furnished to persons to be used in such cases and ***the***[~~such~~] form shall contain[~~ such~~] other requirements as the department may deem proper. The department shall, upon receipt of ***the***[~~such~~] statement, notify the licensee and the owner or lessee of the land or other person who may be charged with the responsibility[~~,~~] for the damages claimed, and furnish copies of[~~ such~~] statements as may be requested.

(2) The filing of ***the***[~~such~~] report or the failure to file[~~ such~~] a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action. The failure to file[~~ such~~] a report shall not be a violation of this chapter. However, if the person failing to file ***the***[~~such~~] report is the only one injured from ***the***[~~such~~] use or application of a pesticide by others, the department may, when in the public interest, refuse to hold a hearing for the denial, suspension, or revocation of a license or ***registration***[~~permit~~] issued under this chapter until ***a***[~~such~~] report is filed.

(3) When damage is alleged to have been done, the claimant shall permit the licensee***, registration holder,*** and ***their***[~~his~~] representatives, such as bondsman or insurer to observe within reasonable hours the lands or nontarget organism alleged to have been damaged in order that ***the***[~~such~~] damage may be examined. Failure of the claimant to permit ***the***[~~such~~] observation and examination of the damaged lands shall automatically bar the claim against the licensee ***or registration holder***.

Section 18. KRS 217B.180 is amended to read as follows:

(1) The provisions of KRS 217B.020 to 217B.180 relating to licenses ***or registration*** and requirements for their issuance shall not apply to any farmer owner of ground equipment applying nonrestricted use pesticides for himself or his farmer neighbors; provided, that[~~:~~

~~(a)~~] he applies the pesticides for his farmer neighbors without compensation other than trading of personal services[~~;~~

~~(b) All equipment not engaged in the application of pesticides for hire shall be identified by a license plate or decal furnished by the department at no cost to the owner with an inscription informing persons that such equipment is not to be used in the application of pesticides for hire under KRS 217B.070. It is the responsibility of the owner to inform the department in writing if any changes in status are to be made~~].

(2) The licensing ***or registration*** provisions of KRS 217B.020 to 217B.180 shall not apply to any person using handpowered

equipment, devices, or contrivances to apply nonrestricted use pesticides to lawns, or to ornamental shrubs and trees not in excess of twelve (12) feet high, as an incidental part of his activity of taking care of his household lawn and yard or those of his neighbors, on the condition that ***the***[~~such~~] person shall not publicly hold himself out as being in the business of applying pesticides, and shall not accept compensation other than the trading of personal services for ***the***[~~such~~] activity.

(3) KRS 217B.020 to 217B.180 shall not apply to operators presently licensed and regulated under the provisions of KRS 249.250 to 249.340 on June 17, 1978, except that if required by EPA regulations ***the***[~~such~~] persons may be issued, without additional fees or examination, an applicator's license to enable them to purchase and use restricted use pesticides pursuant to the requirements of the Federal Environmental Pesticide Control Act of 1972.

(4) The registration provisions of Section 9 of this Act shall not apply to any public operator.

Section 19. KRS 217B.190 is amended to read as follows:

(1) No person shall discard or store any pesticide or pesticide containers in[~~ such~~] a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, ***or*** pollinating insects***,*** or to pollute any waterway in a way harmful to any wildlife therein.

(2) No person shall use any registered pesticide in a manner not in accordance with its label.

(3) No person shall purchase, use***,*** or supervise the use of[~~,~~] a restricted use pesticide unless ***the***[~~such~~] person ***is***[~~be~~] licensed in a classification which permits ***the***[~~such~~] purchase, use***,*** or supervision of use.

(4) No person shall distribute a restricted use pesticide to a person who ***does not have the appropriate certification, registration, or license***[~~is not licensed as a restricted use pesticide dealer or applicator~~] as prescribed in this chapter.

Section 20. KRS 217B.193 is amended to read as follows:

(1) When any of the requirements of this chapter or administrative regulations promulgated pursuant thereto have not been complied with, the Commissioner shall cause a notice of violation to be issued[~~ upon the permit holder~~]. The Commissioner shall ***issue an order for immediate compliance and assess the civil penalty provided for in this section and in KRS 217B.990, or*** set forth in his notice a reasonable time period, but not more than ninety (90) days, for the abatement of the violation. If any ***licensee or registration***[~~license~~] holder has not abated the violation within the period of time prescribed in the notice of violation, the Commissioner shall issue an order for immediate compliance and assess the civil penalty provided for in this section and in KRS 217B.990. The notice of noncompliance shall be mailed to the ***licensee or registration***[~~license~~] holder by certified mail, return receipt requested, addressed to the[~~ license holder's~~] permanent address as shown on department records. The notice of noncompliance shall specify in what respect the ***licensee or registration***[~~license~~] holder has failed to comply with this chapter or administrative regulations promulgated pursuant thereto[~~, and the period of time established for abatement~~]. If the ***licensee or registration***[~~license~~] holder has not complied with the requirements set forth in the notice of noncompliance within the time limit allowed, the license ***or registration*** may be revoked as provided in this chapter.

(2) The Commissioner shall develop a method for calculating the civil penalty for ***a violation, or*** failure to abate a violation within the prescribed time period as authorized by this section, and he shall promulgate a schedule of the civil penalties in an administrative regulation.

Section 21. KRS 217B.220 is amended to read as follows:

The department may issue subpoenas to compel the attendance of witnesses [~~and/~~]or production of books, documents, and records anywhere in the state in any hearing affecting the authority or privilege granted by a license or ***registration***[~~permit~~] issued under the provisions of this chapter.

Section 22. KRS 217B.300 is amended to read as follows:

(1) The following definitions apply to this section ***and Section 23 of this Act***:

   (a) "Application" means the spreading of lawn chemicals in liquid or dry form on a lawn;

   (b) "Applicator for hire" means any person who makes an application of lawn chemicals to a lawn for compensation, including applications made by an employee to lawns owned, occupied***,*** or managed by his employer;

   (c) "Customer" means a person who makes a contract, either written or verbal, with an applicator for hire to apply a pesticide to a lawn;

   (d) "***Golf course" means land on which turf and ornamental care, including application of pesticides or fertilizer and storage of pesticides or fertilizer, is performed for the purpose of preparing the land for use in the game of golf***[~~"Fertilizer" means any substance containing nitrogen, phosphorus, potassium or other recognized plant nutrient or compound which is used for its plant nutrient content~~];

   (e) "Lawn" means land area covered with turf kept closely mown, except land areas used for agricultural production,[~~ golf courses,~~] commercial production of turf, or land situated within three (3) feet of the foundation of a structure when a pesticide is applied to this area as a preventive or control measure for structural pests;

(f) "Lawn chemicals" means fertilizers, pesticides, or defoliants applied or intended for application to lawns;

(g) "Structural pest" means a pest which commonly invades or attacks dwellings or structures; and

(h) "Turf" means the upper stratum of soils bound by grass and plant roots into a thick mat.

(2) The following notification requirements shall be met:

(a) An applicator for hire shall provide a customer at the time of entering into a contract, either written or verbal, or a reasonable time thereafter, with written information concerning lawn chemicals, application procedures, and other general guidelines about the safe use of lawn chemicals.

(b) Immediately following application of lawn chemicals to a lawn, the applicator shall place a lawn marker at a prominent location in the lawn.

(c) The lawn marker shall consist of, at a minimum, a four (4) inch by five (5) inch white sign attached to the upper portion of a dowel or other supporting device of not less than twelve (12) inches in length.

(d) Lettering on the lawn marker shall be in a contrasting color and shall read on one side "LAWN CARE APPLICATION - PLEASE STAY OFF GRASS UNTIL DRY" in letters easily readable and not less than three-eighths (3/8) inch. The lawn marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator.

(e) The lawn marker shall be removed and discarded by the property owner or resident, or other person authorized by the property owner or resident, the day following application.

(f) For applications to residential properties of three (3) families or less, the applicator shall place one (1) lawn marker per property.

(g) For applications to properties other than residential property of three (3) families or less, the applicator shall place lawn markers at primary points of entry to the property to provide notice that lawn chemicals have been applied to the lawn.

(3) At the time of application of lawn chemicals to a lawn, an applicator for hire shall provide the following information to the customer, either homeowner or landlord, for each lawn chemical used:

(a) The brand name or common name of the pesticide applied;

(b) The pesticide type;

(c) The fertilize rate or analysis;

(d) The reason for use;

(e) The concentration of end use product applied to the lawn and the rate of application;

(f) Any special instruction appearing on the label of the lawn chemical product applicable to the customer's use of the lawn following application, and any other precautionary or hazard information appearing on the label as applicable to the end use concentration; and

(g) The name and the state applicator license or certificate number of the individual actually making the application.

(4) Any customer of an applicator for hire, or a neighbor whose residence is adjoining to a customer of an applicator for hire, may receive prior notification twenty-four (24) to forty-eight (48) hours in advance of an application by contacting the applicator for hire and providing his name, address, and telephone number. In this event, the applicator for hire shall provide notification in writing, in person, or by telephone, of the date and approximate time of application. If an applicator for hire is unable to provide prior notification to a customer or neighbor because of the absence or inaccessibility of the individual, the applicator shall leave a written notice at the residence.

(5) Violations of this section shall be punishable by a civil fine of not more than one hundred dollars ($100) for each violation.

SECTION 23. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The provisions of subsections (2), (3), and (4) of Section 23 of this Act relating to notification and information requirements shall not apply to any golf course or its employees.

(2) The following exceptions shall be required by a golf course relating to notification and information requirements:

(a) Immediately following application of lawn chemicals on a golf course, the applicator shall place a lawn marker on the number one (1) tee or the number one (1) and number ten (10) tee;

(b) The lawn marker shall consist of, at a minimum, a four (4) inch by five (5) inch white sign attached to the upper portion of a dowel or other supporting device of not less than twelve (12) inches in length;

(c) Lettering on the lawn marker shall be in a contrasting color and shall read on one side "LAWN CARE APPLICATION - PLEASE STAY OFF GRASS UNTIL DRY" in letters easily readable and not less than three-eighths (3/8) inch. The lawn marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator;

(d) The lawn marker shall be removed by the applicator, or other personnel authorized by the golf course management, the day following application; and

(e) Any persons whose residence directly joins a golf course may receive prior notification of a plant protective material application by contacting the golf course superintendent's office and providing name, address, and telephone number. The golf course shall provide notification in writing, in person, or by telephone. If the golf course cannot provide advance notice because of unforeseen climatic conditions causing fungal outbreak or other serious circumstances, the person shall be contacted at the time of the application. If the golf course is unable to provide prior notification or direct notification as mentioned above to a resident because of the absence or unavailability of the resident, the golf course shall leave a written notice at the residence.

The Committee on Judiciary reported **HB 509**, with Committee Substitute attached thereto, **HB 595**, **HB 659**, **HB 665**, **HB 666**, with Committee Substitute attached thereto, **HB 702**, **HB 796**, with Committee Substitute attached thereto, **HB 880**, **HB 891**, and **SB 76** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 509, AN ACT relating to disregarding the orders of officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fleeing or evading police in a motor vehicle in the first degree when, with intent to elude or flee, the person knowingly disobeys a direction to stop his or her motor vehicle, given by a person recognized to be a peace officer, and at least one (1) of the following conditions exists:

(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720;

(b) The person is driving under the influence of alcohol or any other substance in violation of KRS 189A.010;

(c) The person is driving while his or her driver's license is suspended for violating KRS 189A.010; or

(d) By fleeing or eluding, the person is the cause, or creates a substantial risk, of serious physical injury or death to any person or property.

(2) Fleeing or evading police in a motor vehicle in the first degree is a Class B felony.

Section 2. KRS 520.100 is amended to read as follows:

(1) A person is guilty of ***fleeing or evading police in***[~~resisting an order to stop~~] a motor vehicle ***in the second degree*** when***, with intent to elude or flee, the person***[~~he~~] knowingly ***or wantonly disobeys***[~~ fails to obey~~] a[~~ recognized~~] direction to stop his ***or her motor*** vehicle, given by a person recognized to be a peace officer.

(2)[~~ No offense is committed under this section when the conduct involved constitutes a failure to comply with a directive of a traffic control officer.~~

~~(3)~~] ***Fleeing or evading police in***[~~Resisting an order to stop~~] a motor vehicle ***in the second degree*** is a Class ***D felony***[~~A misdemeanor~~].

SECTION 3. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fleeing or evading police in a vehicle other than a motor vehicle in the first degree when, with intent to elude or flee, the person knowingly or wantonly disobeys a direction, given by a person recognized to be a peace officer, to stop his or her vehicle, if the vehicle is not a motor vehicle as defined in KRS 189.010 and at least one (1) of the following conditions exists:

(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720; or

(b) By fleeing or eluding, the person is the cause, or creates a substantial risk, of physical injury or death to any person or property.

(2) Fleeing or evading police in a vehicle other than a motor vehicle in the first degree is a Class B felony.

SECTION 4. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fleeing or evading police in a vehicle other than a motor vehicle in the second degree when, with intent to elude or flee, the person knowingly or wantonly disobeys a direction, given by a person recognized to be a peace officer, to stop his or her vehicle, and the vehicle is not a motor vehicle as defined in KRS 189.010 and in fleeing or eluding, the person is the cause of, or creates a substantial risk of, physical injury to persons or property.

(2) Fleeing or evading police in a vehicle other than a motor vehicle in the second degree is a Class D felony.

SECTION 5. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fleeing or evading police in the first degree when, as a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys an order to stop, given by a person recognized to be a peace officer,

and at least one (1) of the following conditions exists:

(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720; or

(b) By fleeing or eluding, the person is the cause of, or creates a substantial risk of, serious physical injury or death to any person or property.

(2) Fleeing or evading police in the first degree is a Class B felony.

SECTION 6. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fleeing or evading police in the second degree when, as a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop, given by a person recognized to be a peace officer, and in fleeing or eluding, the person is the cause of, or creates a substantial risk of, physical injury to any person or property.

(2) Fleeing or evading police in the second degree is a Class D felony.

Section 7. KRS 189.393 is amended to read as follows:

No operator of a vehicle, after having received a visual or audible signal from a traffic officer, or marked police vehicle, shall knowingly ***or wantonly***~~[flee or attempt to elude any traffic officer by willful or wanton]~~ disregard ***the***~~[of such]~~ signal so as to interfere with or endanger the operation of the police vehicle, or the traffic officer or other vehicles or pedestrians~~[, nor shall he increase the speed of his vehicle or extinguish the lights of his vehicle in an attempt to elude or flee]~~.

The Committee Substitute to **HB 509** is as follows:

AN ACT relating to disregarding the orders of officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fleeing or evading police in a motor vehicle in the first degree when, with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop his or her motor vehicle, given by a person recognized to be a peace officer, and at least one (1) of the following conditions exists:

(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720;

(b) The person is driving under the influence of alcohol or any other substance or combination of substances in violation of KRS 189A.010;

(c) The person is driving while his or her driver's license is suspended for violating KRS 189A.010; or

(d) By fleeing or eluding, the person is the cause, or creates a substantial risk, of serious physical injury or death to any person or property.

(2) Fleeing or evading police in a motor vehicle in the first degree is a Class D felony.

Section 2. KRS 520.100 is amended to read as follows:

(1) A person is guilty of ***fleeing or evading police in***~~[resisting an order to stop]~~ a motor vehicle ***in the second degree*** when***,*** ***with intent to elude or flee, the person***~~[he]~~ knowingly ***or wantonly disobeys***~~[fails to obey]~~ a~~[recognized]~~ direction to stop his ***or her motor*** vehicle, given by a person recognized to be a peace officer.

(2)~~[No offense is committed under this section when the conduct involved constitutes a failure to comply with a directive of a traffic control officer.~~

~~(3)]~~ ***Fleeing or evading police in***~~[Resisting an order to stop]~~ a motor vehicle ***in the second degree*** is a Class A misdemeanor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fleeing or evading police in the first degree when, as a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys an order to stop, given by a person recognized to be a peace officer, and at least one (1) of the following conditions exists:

(a) The person is fleeing immediately after committing an act of domestic violence as defined in KRS 403.720; or

(b) By fleeing or eluding, the person is the cause of, or creates a substantial risk of, serious physical injury or death to any person or property.

(2) Fleeing or evading police in the first degree is a Class D felony.

SECTION 4. A NEW SECTION OF KRS CHAPTER 520 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fleeing or evading police in the second degree when, as a pedestrian, and with intent to elude or flee, the person knowingly or wantonly disobeys a direction to stop, given by a person recognized to be a peace officer, and in fleeing or eluding, the person is the cause of, or creates a substantial risk of, physical injury to any

person or property.

(2) Fleeing or evading police in the second degree is a Class A misdemeanor.

Section 5. KRS 519.050 is amended to read as follows:

(1) A person is guilty of impersonating a public servant***, other than a peace officer,*** if he pretends to be a public servant***, other than a peace officer,*** or to represent a public agency***, other than a law enforcement agency,*** or act with the authority or approval of a public agency, ***other than a law enforcement agency,*** with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.

(2) Impersonating a public servant***, other than a peace officer,*** is a Class A misdemeanor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 519 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of impersonating a peace officer if he pretends to be a peace officer, or to represent a law enforcement agency or act with the authority or approval of a law enforcement agency, with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon the pretense to his prejudice.

(2) Impersonating a peace officer is a Class D felony.

(3) As used in this section, the phrase "peace officer" means a peace officer as defined in KRS 446.010.

Section 7. KRS 189.393 is amended to read as follows:

No operator of a vehicle, after having received a visual or audible signal from a traffic officer, or marked police vehicle, shall knowingly ***or wantonly***[~~ flee or attempt to elude any traffic officer by willful or wanton~~] disregard ***the***[~~of such~~] signal so as to interfere with or endanger the operation of the police vehicle, or the traffic officer or other vehicles or pedestrians[~~, nor shall he increase the speed of his vehicle or extinguish the lights of his vehicle in an attempt to elude or flee~~].

HB 595, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 436 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state. Nudity does not include a mother in the act of nursing the mother's baby.

(b) "Public place" means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. "Public place" includes, but is not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and meeting facilities utilized by any religious, social, fraternal, or similar organization. Premises used solely as a private residence, whether permanent or temporary in nature, are not deemed to be a public place. "Public place" does not include enclosed single sex public restrooms, enclosed single sex functional showers, locker or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors' offices, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor does it include a person appearing in a state of nudity in a modeling class operated by a proprietary school, licensed by the Commonwealth of Kentucky, a college, junior college, or university supported entirely or partly by taxation, or a private college or university where the private college or university maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation or an accredited private college. "Public place" does not include a private facility which has been formed as a family-oriented clothing optional facility, properly licensed by the state.

(2) A person is guilty of public indecency when he or she knowingly or intentionally, in a public place:

(a) Engages in sexual intercourse;

(b) Engages in deviate sexual conduct;

(c) Engages in masturbation;

(d) Engages in bestiality;

(e) Engages in oral copulation, flagellation, excretory functions, or other ultimate sex acts;

(f) Appears in a state of nudity; or

(g) Fondles the genitals of himself or another person.

(3) Public indecency is a Class A misdemeanor.

(4) The provisions of this section shall not apply to the lawful activities of persons at a nudist society licensed under KRS Chapter 232.

(5) The provisions of this section shall not apply to any theatrical production which contains nudity as defined in this section performed in a theater by a professional or amateur theatrical or musical company and which has serious artistic merit.

(6) (a) If a person is arrested for public indecency while working as an employee or a contractor, the employer or principal may be held liable for a fine imposed by this subsection.

(b) The employer may not be held liable under this section unless it is shown the employer knew or should have known the acts of his or her employee or contractor were in violation of this statute.

(7) This section shall not affect in any fashion the ability of local jurisdictions or the state of Kentucky to regulate any activity where alcoholic beverages, including malt beverages, are sold for consumption.

HB 659, AN ACT relating to victims of crime.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Crime Victims Compensation Board;

(2) "Child" means any person less than eighteen (18) years of age;

(3) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them who is legally responsible for the expenses incurred by the victim as a result of the crime committed against the victim;

(4) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal physical, psychological injury, or death, and is punishable by fine, imprisonment, or death. *Criminally injurious conduct shall include an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside of the United States against a resident of Kentucky.* Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft, or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted or involved a violation of KRS 189A.010, driving under the influence;

(5) "Family," when used with reference to a person, shall mean:

- (a) Any person related to such person within the third degree of consanguinity;
- (b) Any person maintaining a sexual relationship with such person; or
- (c) Any person residing in the same household with such person; and

(6) (a) "Victim" means a needy person who suffers personal physical or psychological injury or death from a criminal act in Kentucky as a result of:

1. Criminally injurious conduct;
2. A good faith effort to prevent criminally injurious conduct; or
3. A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

(b) "Victim" shall also mean a resident who is a victim of a crime occurring outside this state if:

1. The crime would be compensable had it occurred inside this state; and
2. The crime occurred in a state which does not have a crime victim compensation program, for which the victim is eligible as eligibility is set forth in KRS 346.050.

(c) "Victim" shall also mean a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside the United States.

HB 665, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere;

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and

(l) If the defendant's record indicates a controlled substance or alcohol problem, submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, said fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. For good cause shown, the testing fee may be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the State Treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by KRS 431.570, relative to the probationer.

(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed six (6) months***, with or without credit for time served,*** or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

HB 666, AN ACT relating to commerce.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.208 is amended to read as follows:

(1) For the purposes of this section, "limited liability company" shall mean any company subject to the provisions of KRS Chapter 275.

(2) Any limited liability company ***shall be***[~~which is~~] treated[~~ as a partnership for federal income tax purposes shall be treated as a partnership in accordance with the provisions of KRS 141.206~~] for Kentucky income tax purposes ***in the same manner as its tax treatment for federal***

[~~(3) Any limited liability company which is treated as a corporation for federal income tax purposes shall be treated as a corporation in accordance with the provisions of KRS 141.040 for Kentucky~~] income tax purposes.

Section 2. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument, or writing other than a will and other than a lease or easement, regardless of where made, executed, or delivered, by which any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents ($0.50) for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect the amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to

(8) "Employee" includes an officer but not a director. A director may accept duties that make him also an employee.

(9) "Entity" includes corporation and foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government.

(10) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(11) "Governmental subdivision" includes authority, county, district, and municipality.

(12) "Includes" denotes a partial definition.

(13) "Individual" includes the estate of an incompetent or deceased individual.

(14) "Means" denotes an exhaustive definition.

(15) "Notice" is defined in KRS 271B.1-410.

(16) "Person" includes individual and entity.

(17) "Principal office" means the office (in or out of this state) so designated in ***writing to the Secretary of State***~~[the annual report]~~ where the principal executive offices of a domestic or foreign corporation are located.

(18) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(19) "Record date" means the date established under Subtitles 6 or 7 on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date, unless another time for doing so is specified when the record date is fixed.

(20) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under subsection (3) of KRS 271B.8-400 for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(21) "Share" means the unit into which the proprietary interests in a corporation are divided.

(22) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(23) "State" when referring to a part of the United States, includes a state and Commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States.

(24) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(25) "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

(26) "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

Section 5. KRS 271B.2-020 is amended to read as follows:

(1) The articles of incorporation shall set forth:

(a) A corporate name for the corporation that satisfies the requirements of KRS 271B.4-010;

(b) The number of shares the corporation is authorized to issue;

(c) The street address of the corporation's initial registered office and the name of its initial registered agent at that office;

(d) The mailing address of the corporation's principal office; and

(e) The name and mailing address of each incorporator.

(2) The articles of incorporation may set forth:

(a) The names and mailing addresses of the individuals who are to serve as the initial directors;

(b) Provisions not inconsistent with law regarding:

1. The purpose or purposes for which the corporation is organized;

2. Managing the business and regulating the affairs of the corporation;

3. Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

4. A par value for authorized shares or classes of shares; and

5. The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;

(c) Any provision that under this chapter is required or permitted to be set forth in the bylaws; and

(d) A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of his duties as a director, provided that such provision shall not eliminate or limit the liability of a director:

1. For any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation or its shareholders;

2. For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law;

3. For any vote for or assent to an unlawful distribution to shareholders as prohibited under KRS 271B.8-330; or

4. For any transaction from which the director derived an improper personal benefit.

No such provision shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when such provision becomes effective. In no case shall this subsection or any such provision be construed to expand the liability of any director as determined pursuant to KRS 271B.8-300.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(4) Unless the registered agent signs the articles, the corporation shall deliver with the articles of incorporation the registered agent's written consent to the appointment.

Section 6. KRS 271B.5-010 is amended to read as follows:

(1) Each corporation shall continuously maintain in this state:

(a)[~~(1)~~] A registered office that may be the same as any of its places of business; and

(b)[~~(2)~~] A registered agent, who may be:

1.[~~(a)~~] An individual who resides in this state and whose business office is identical with the registered office;

2.[~~(b)~~] A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office;[~~ or~~]

3.[~~(c)~~] A foreign corporation or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office***;***

4. A domestic limited liability company or a foreign limited liability company authorized to transact business in the state whose business office is identical with the registered office; or

5. A domestic limited partnership or foreign limited partnership authorized to transact business in the state whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of the registered agent or a successor registered agent on whom process may be given is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 7. KRS 271B.10-020 is amended to read as follows:

Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one (1) or more amendments to the corporation's articles of incorporation without shareholder action:

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the Secretary of State;

(4) ***To delete the mailing address of the corporation's initial principal office if the statement containing the mailing address of new principal office is on file with the Secretary of State;***

(5) To change each issued and unissued authorized share of an outstanding class into a greater number of whole shares if the corporation has only shares of that class outstanding;

(6)[~~(5)~~] To change the corporate name by substituting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name; or

(7)[~~(6)~~] To make any other change expressly permitted by this chapter to be made without shareholder action.

Section 8. KRS 271B.11-080 is amended to read as follows:

(1) One (1) or more domestic or foreign limited liability companies or limited partnerships may merge with one (1) or more domestic corporations if:

(a) The merger is permitted by the laws of the state or country under whose law each foreign limited liability company or limited partnership is incorporated, organized, or formed, and each foreign limited liability company or limited partnership complies with those laws in effecting the merger;

(b) Each domestic limited liability company party to the merger complies with the applicable provisions of the Kentucky Revised Statutes;

(c) Each domestic limited partnership party to the merger complies with the applicable provisions of KRS Chapter 362;

(d) Each domestic corporation complies with the applicable provisions of KRS 271B.11-010 to 271B.11-040.

(2) The plan of merger shall set forth:

(a) The name of each constituent business entity that is a party to the merger and the name of the surviving business entity into which each constituent business entity proposes to merge;

(b) The terms and conditions of the proposed merger, including but not limited to, a statement which sets forth whether limited liability is retained by the surviving business entity;

(c) The manner and basis of converting the shares in each corporation and the interests in each business entity that is a party to the merger into interests, shares, or other securities or obligations, as the case may be, of the surviving entity, or of any other business entity, or, in whole or in part, into cash or other property;

(d) The amendments to the articles of organization of a limited liability company, or articles of incorporation of a corporation or certificate of limited partnership, as the case may be, of the surviving business entity as are desired to be effected by the merger, or that no changes are desired;

(e) Other provisions relating to the proposed merger that are deemed necessary or desirable.

(3) The business entity surviving from the merger shall deliver to the Secretary of State for filing articles of merger duly executed by each constituent business entity setting forth:

(a) The name and jurisdiction of formation or organization of each constituent business entity which is to merge;

(b) The plan of merger;

(c) The name of the surviving business entity;

(d) A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with the laws applicable to such business entity; and

(e) If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:

1. Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and

2. Appoints the Secretary of State as its agent for service of process in any such proceeding. The surviving entity shall specify the address to which a copy of the process shall be mailed to it by the Secretary of State.

(4) The articles of merger filed by the surviving entity in accordance with this section shall also be deemed to have been filed for any domestic limited liability company party to the merger in accordance with the applicable sections of the Kentucky Revised Statutes and for any domestic limited partnership party to the merger in accordance with KRS Chapter 362.

(5) Upon merger taking effect, if the surviving entity in the merger is a foreign limited partnership, limited liability company, or corporation, the surviving entity shall be deemed:

(a) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger;

(b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger the amount, if any, to which they are entitled under Subtitle 13 of KRS Chapter 271B; and

(c) To agree, to the extent required by Section 200 of the Constitution, that the courts of this Commonwealth shall retain jurisdiction over that part of the corporate property within the limits of this Commonwealth in all matters which may arise, as if the transaction has not taken place.

(6) If a domestic or foreign limited liability company or limited partnership is the surviving entity of a merger, the surviving domestic or foreign limited liability company or limited partnership shall be considered a surviving corporation for purposes of KRS 271B.11-060(1).

(7) A partner or, in the case of a limited partnership, a general partner who becomes a shareholder of a corporation as a result of a merger shall remain liable as a partner or general partner, as the case may be, for an obligation incurred by the partnership or limited partnership before the merger takes effect. The partner's or general partner's liability for all obligations of the corporation incurred before the merger takes effect shall be that of a shareholder as

provided in this chapter. A limited partner who becomes a shareholder as a result of a merger shall remain liable only as a limited partner for an obligation incurred by the limited partnership before the merger takes effect.

Section 9. KRS 271B.13-010 is amended to read as follows:

As used in this subtitle:

(1) "Corporation" means the issuer of the shares held by a dissenter***, except that in the case of a merger where the issuing corporation is not the surviving corporation, then, after consummation of the merger, "corporation" shall mean the surviving corporation***[~~before the corporate action, or the surviving or acquiring corporation by merger or share exchange of that issuer~~].

(2) "Dissenter" means a shareholder who is entitled to dissent from corporate action under KRS 271B.13-020 and who exercises that right when and in the manner required by KRS 271B.13-200 to 271B.13-280.

(3) "Fair value," with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable. In any transaction subject to the requirements of KRS 271B.12-210 or exempted by KRS 271B.12-220(2), "fair value" shall be at least an amount required to be paid under KRS 271B.12-220(2) in order to be exempt from the requirements of KRS 271B.12-210.

(4) "Interest" means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

(5) "Record shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(6) "Beneficial shareholder" means the person who is a beneficial owner of shares held in a voting trust or by a nominee as the record shareholder.

(7) "Shareholder" means the record shareholder or the beneficial shareholder.

Section 10. KRS 271B.15-030 is amended to read as follows:

(1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the Secretary of State for filing. The application shall set forth:
    (a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of KRS 271B.15-060;
    (b) The name of the state or country under whose law it is incorporated;
    (c) Its date of incorporation and period of duration;
    (d) The street address of its principal office;
    (e) The address of its registered office in this state and the name of its registered agent at that office; and
    (f) The names and usual business addresses of its current directors and officers.

(2) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import) duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated.

(3) Unless the registered agent signs the application, the foreign corporation shall deliver with the application for certificate of authority the registered agent's written consent to the appointment.

Section 11. KRS 271B.15-070 is amended to read as follows:

(1) Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:
    (a)[~~(1)~~] A registered office that may be the same as any of its places of business; and
    (b)[~~(2)~~] A registered agent, who may be:
        1.[~~(a)~~] An individual who resides in this state and whose business office is identical with the registered office;
        2.[~~(b)~~] A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office; or
        3.[~~(c)~~] A foreign corporation or foreign not-for-profit corporation authorized to transact business in this state whose business office is identical with the registered office***;***
        4. A domestic limited liability company or a foreign limited liability company authorized to transact business in the state whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 12. KRS 273.182 is amended to read as follows:

(1) Each corporation shall continuously maintain in this state:

(a)[~~(1)~~] A registered office that may be the same as any of its places of business; and

(b)[~~(2)~~] A registered agent, who may be:

1.[~~(a)~~] An individual who resides in this state and whose business office is identical with the registered office;

2.[~~(b)~~] A domestic corporation or nonprofit domestic corporation whose business office is identical with the registered office;[~~ or~~]

3.[~~(c)~~] A foreign corporation or nonprofit foreign corporation authorized to transact business in this state whose business office is identical with the registered office***; or***

4. A domestic limited liability company or a foreign limited liability company authorized to transact business in the state whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment..

Section 13. KRS 273.247 is amended to read as follows:

(1) The articles of incorporation shall set forth:

(a) The name of the corporation;

(b) The purpose or purposes for which the corporation is organized;

(c) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets or dissolution or final liquidation;

(d) The street address of the corporation's initial registered office and the name of its initial registered agent at that address;

(e) The mailing address of the corporation's principal office;

(f) The number of directors constituting the initial board of directors, and the names and mailing addresses of the persons who are to serve as the initial directors; and

(g) The name and mailing address of each incorporator.

(2) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in KRS 273.163 to 273.387.

(3) Unless its articles of incorporation provide otherwise, every corporation shall be presumed to have perpetual duration and succession in its corporate name.

(4) Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, when a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

(5) Unless the registered agent signs the articles, the corporation shall deliver with the articles of incorporation the registered agent's written consent to the appointment.

Section 14. KRS 273.2521 is amended to read as follows:

(1) The Secretary of State shall prescribe and furnish on request forms for:

(a) [~~An application for~~]A certificate of existence;

(b) A foreign corporation's application for a certificate of authority to transact business in this state;

(c) A foreign corporation's application for a certificate of withdrawal;

(d) A change of registered office or registered agent;

(e) The annual report.

Use of these forms shall be mandatory.

(2) The Secretary of State shall prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter. Use of these forms shall be mandatory.

Section 15. KRS 273.361 is amended to read as follows:

(1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the Secretary of State for filing. The application shall set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of KRS 273.364;

(b) The name of the state or country under whose law it is incorporated;

(c) Its date of incorporation and period of duration;

(d) The street address of its principal office;

(e) The address of its registered office in this state and the name of its registered agent at that office; and

(f) The names and usual business addresses of its current directors and officers.

(2) The foreign corporation shall deliver with the completed application a certificate of existence, or a document of similar import, duly authenticated by the Secretary of State or other official having custody of corporate records in the state or county under whose law it is incorporated.

(3) Unless the registered agent signs the application, the foreign corporation shall deliver, with the application for certificate of authority, the registered agent's written consent to the appointment.

Section 16. KRS 273.3641 is amended to read as follows:

(1) Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:

(a)[~~(1)~~] A registered office that may be the same as any of its places of business; and

(b)[~~(2)~~] A registered agent, who may be:

1.[~~(a)~~] An individual who resides in this state and whose business office is identical with the registered office;

2.[~~(b)~~] A domestic corporation or nonprofit domestic corporation whose business office is identical with the registered office; or

3.[~~(c)~~] A foreign corporation or foreign nonprofit corporation authorized to transact business in this state whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 17. KRS 273.357 is amended to read as follows:

The dissolution of a corporation either (1) by the filing of articles of dissolution with the Secretary of State, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in KRS 273.161 to 273.390[~~, or (3) by expiration of its period of duration,~~] shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two (2) years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two (2) years so as to extend its period of duration.

Section 18. KRS 274.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Professional service corporation" means a corporation organized under this chapter.

(2) "Foreign professional service corporation" means a corporation for profit organized for the purpose of rendering professional services under a law other than the law of this state.

(3) "Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which, prior to the passage of this chapter and by reason of law or a professional code of ethics, could not be performed by a corporation. The personal services which come within the provisions of this chapter are the personal services rendered by, but not limited to, certified public accountants, public accountants, chiropractors, osteopaths, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropodists, architects, veterinarians, optometrists and attorneys-at-law.

(4) "Qualified person" means a natural person, general partnership, ***limited liability company, registered limited liability partnership,*** or professional service corporation which is eligible under this chapter to own shares issued by a professional service corporation.

(5) "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional service corporation is organized to render.

Section 19. KRS 274.017 is amended to read as follows:

(1) A professional service corporation may issue and a shareholder thereof may transfer or pledge shares, fractional shares, and rights or options to purchase shares only to:

(a) Natural persons who are authorized by law in this state or in any other state or territory of the United States or the District of Columbia to render a professional service permitted by the articles of incorporation of the corporation;

(b) General partnerships***, including registered limited liability partnerships,*** in which all the partners are qualified persons with respect to such professional corporation and in which at least one (1) partner is authorized by law in this state to render a professional service permitted by the articles of incorporation of the corporation;[~~and~~]

(c) ***A professional limited liability company, domestic or foreign, authorized by law in this state to render a professional service permitted by the articles of organization of the limited liability company; and***

(d) Professional service corporations, domestic or foreign, authorized by law in this state to render a professional service permitted by the articles of incorporation of the corporation.

(2) Any issuance or transfer of shares in violation of this section shall be void; however, nothing herein contained shall prohibit the transfer of shares of a professional corporation by operation of law or court decree.

Section 20. KRS 275.005 is amended to read as follows:

A limited liability company may be organized under this chapter for any lawful purpose, ***whether or not for profit,*** including the provision of one (1) or more professional services conducted in or outside the Commonwealth. Except as otherwise provided in KRS 275.150, if the purpose for which a limited liability company is organized or its activities make it subject to one (1) or more special provisions of law, the limited liability company shall also comply with those provisions.

Section 21. KRS 275.015 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Articles of organization" means the articles filed in conformity with the provisions of KRS 275.020 and 275.025, and those articles as amended or restated.

(2) "Business entity" means domestic and foreign limited liability companies, general and limited partnerships, ***including registered limited liability partnerships,*** corporations, business trusts, and sole proprietorships.

(3) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country.

(4) "Court" means every court having jurisdiction in the case.

(5) "Event of disassociation" means an event that causes a person to cease to be a member as provided in KRS 275.280.

(6) "Foreign limited liability company" means an organization that is:

(a) An unincorporated association;

(b) Organized under laws of a state other than the laws of this Commonwealth, or under the laws of any foreign country; and

(c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity.

(7) "Knowledge" means actual knowledge of a fact.

(8) "Limited liability company" or "domestic limited liability company" means an unincorporated association formed under this chapter ***having one (1) or more members***.

(9) "Limited liability company interest" or "interest in the limited liability company" means the interest that may be issued in accordance with KRS 275.195.

(10) "Limited partnership" means a limited partnership formed under the laws of the Commonwealth or any other state or a foreign country.

(11) ***"Majority-in-interest of the members" means those members entitled to cast a majority of the votes to be cast by the members on any matter under the terms of the operating agreement described in subsection (3) of Section 29 of this Act.***

(12) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by managers, the person or persons designated in accordance with KRS 275.165.

(13)[~~(12)~~] "Member" or "members" means a person or persons who have been admitted to membership in a limited liability company as provided in KRS 275.275 and who have not ceased to be members as provided in KRS 275.280.

(14)[~~(13)~~] "Operating agreement" means any agreement, written or oral, among all of the members, as to the conduct of the business and affairs of a limited liability company. If a written operating agreement contains a provision to the effect that any amendment to the operating agreement of the limited liability company shall be in writing and adopted in accordance with the provisions of the operating agreement, the provision shall be enforceable in accordance with its terms, and any agreement as to the conduct of the business and affairs of the limited liability company which is not in writing and adopted in accordance with the provisions of the operating agreement shall not be considered part of the operating agreement and shall be void and unenforceable. ***If a limited liability company has only one (1) member, an operating***

agreement shall be deemed to include:

(a) A writing executed by the member that relates to the affairs of the limited liability company and the conduct of its business regardless of whether the writing constitutes an agreement; or

(b) If the limited liability company is managed by a manager, any other agreement between the member and the limited liability company as it relates to the limited liability company and the conduct of its business, regardless of whether the agreement is in writing.

(15)[~~(14)~~] "Person" means an individual, a general partnership, a limited liability partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal entity.

(16)[~~(15)~~] "Principal office" means the office, in or out of the Commonwealth, so designated in writing with the Secretary of State where the principal executive offices of a domestic or foreign limited liability company are located.

(17)[~~(16)~~] "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(18)[~~(17)~~] "Proceeding" means civil suit and criminal, administrative, and investigative action.

(19)[~~(18)~~] "Professional limited liability company" means a limited liability company organized under this chapter or the laws of another state or foreign country for purposes that include, but are not limited to, the providing of one (1) or more professional services. Except as otherwise expressly provided in this chapter, all provisions of this chapter governing limited liability companies shall be applicable to professional limited liability companies.

(20)[~~(19)~~] "Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys.

(21)[~~(20)~~] "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional limited liability company is organized to provide.

Section 22. KRS 275.020 is amended to read as follows:

One (1) or more persons may ***serve as the organizer and*** form a limited liability company by delivering articles of organization to the Secretary of State for filing. It shall not be necessary that the person or persons be members of the limited liability company.

Section 23. KRS 275.025 is amended to read as follows:

(1) The articles of organization shall set forth:

(a) A name for the limited liability company that satisfies the requirements of KRS 275.100;

(b) The street address of the limited liability company's initial registered office, and the name of its initial registered agent at that office;

(c) The mailing address of the initial principal office of the limited liability company; ***and***

(d)[~~A statement that the limited liability company has at least two (2) or more members;~~

~~(e)~~] A statement that the limited liability company is to be managed by a manager or managers or that the limited liability company is to be managed by its members[~~; and~~

~~(f) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve~~].

(2) ***The term of a limited liability company shall be perpetual unless a period of duration other than perpetual is set forth in the articles of organization.***

(3) The articles of organization of a professional limited liability company shall designate the professional services to be practiced through the professional limited liability company.

(4)[~~(3)~~] The articles of organization may set forth any other matter that under this chapter is permitted to be set forth in an operating agreement not inconsistent with law.

(5)[~~(4)~~] A written statement of the initial registered agent consenting to serve in that capacity shall accompany the articles of organization.

(6)[~~(5)~~] A member of a limited liability company shall not have a vested property right resulting from any provision of the articles of organization.

Section 24. KRS 275.050 is amended to read as follows:

(1) The Secretary of State shall prescribe and furnish on request forms for:

(a) A certificate of existence or authorization;

(b) An application for a certificate of authority;

(c) An application for a certificate of withdrawal;

(d) A statement of change of registered office or registered agent;

(e) A statement of change of principal office address;

(f) The annual report; and

(g) Amended application for certificate of authority.

(2) The Secretary of State shall have the discretion to make mandatory the use of the forms referred to in subsection (1) of this section.

(3) The Secretary of State ***may***[~~shall~~] prescribe and furnish on request forms for other documents required or permitted to be filed pursuant to this chapter, but their use shall not be mandatory.

Section 25. KRS 275.135 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, every member shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any member, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is a member, shall bind the limited liability company, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the member is dealing has knowledge or has received notification of the fact that the member has no such authority.

(2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

(a) No member, solely by reason of being a member, shall be an agent of the limited liability company; and

(b) Every manager shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any manager, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is the manager shall bind the limited liability company, unless the manager so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge or has received notification of the fact that the manager has no such authority.

(3) An act of a manager or a member which is apparently not for the carrying on in the usual way of the business or affairs of the limited liability company shall not bind the limited liability company unless, at the time of the transaction or at any other time, the act is authorized in accordance with the operating agreement.

(4) An act of a manager or member in contravention of a restriction on authority shall not bind the limited liability company to persons having knowledge of the restriction.

(5) Unless otherwise set forth in a written operating agreement, a member or manager of a limited liability company has the power and authority to delegate to one (1) or more other persons the member's or manager's powers to manage or control the business and affairs of the limited liability company, including without limitation the power to delegate to agents and employees of a member, manager, or limited liability company or to delegate by an agreement to other persons. This delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager of the limited liability company.

Section 26. KRS 275.150 is amended to read as follows:

(1) Except as ***provided in subsection (2) of this section or as*** otherwise specifically set forth in ***other sections in*** this chapter, no member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall be personally liable by reason of being a member, manager, employee, or agent of the limited liability company, under a judgment, decree, or order of a court, agency, or tribunal of any type, or in any other manner, in this or any other state, or on any other basis, for a debt, obligation, or liability of the limited liability company, whether arising in contract, tort, or otherwise. The status of a person as a member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall not subject the person to personal liability for the acts or omissions, including any negligence, wrongful act, or actionable misconduct, of any other member, manager, agent, or employee of the limited liability company.

(2) Notwithstanding the provisions of subsection (1) of this section, under a written operating agreement or under another written agreement, a member or manager may agree to be obligated personally for any of the debts, obligations, and liabilities of the limited liability company.

Section 27. KRS 275.165 is amended to read as follows:

(1) Unless the articles of organization vest management of the limited liability company in a manager or managers, management of the business and affairs of the limited liability company shall vest in the members. Subject to any provisions in the articles of organization, the operating agreement or this chapter restricting or enlarging the management rights and duties of any person or group or class of persons, the members shall have the right and authority to manage the

affairs of the limited liability company and to make all decisions with respect thereto.

(2) If the articles of organization vest management of the limited liability company in one (1) or more managers, except to the extent otherwise provided in the articles of organization, the operating agreement, or this chapter, the manager or managers shall have exclusive power to manage the business and affairs of the limited liability company. Unless otherwise provided in the articles of organization or the operating agreement, managers:

(a) Shall be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of ***the majority-in-interest***~~[more than one-half (1/2) by number]~~ of the members;

(b) Shall not be required to be members of the limited liability company or natural persons; and

(c) Unless they are sooner removed or sooner resign, shall hold office until their successors shall have been elected and qualified.

Section 28. KRS 275.170 is amended to read as follows:

Unless otherwise provided in an operating agreement:

(1) A member or manager shall not be liable, responsible, or accountable in damages or otherwise to the limited liability company or the members of the limited liability company for any action taken or failure to act on behalf of the limited liability company unless the act or omission constitutes wanton or reckless misconduct.

(2) Each member and manager shall account to the limited liability company and hold as trustee for it any profit or benefit derived by that person without the consent of more than one-half (1/2) by number of the disinterested managers***, one-half (1/2) by number of other persons participating in the management of the business or affairs of the limited liability company,*** or ***the majority-in-interest of the*** members~~[or other persons participating in the management of the business or affairs of the limited liability company from]~~:

(a) Any transaction connected with the conduct or winding up of the limited liability company; or

(b) Any use by the member or manager of its property, including, but not limited to, confidential or proprietary information of the limited liability company or other matters entrusted to the person as a result of his status as manager or member.

(3) One who is a member of the limited liability company in which management is vested in managers under KRS 275.165(2) and who is not a manager shall have no duties to the limited liability company or the other members solely by reason of acting in his capacity as a member.

Section 29. KRS 275.175 is amended to read as follows:

(1) Unless otherwise provided in the articles of organization, ***a written***~~[an]~~ operating agreement, or this chapter,~~[and subject to subsection (2) of this section,]~~ the affirmative vote, approval, or consent of ***a majority interest of the***~~[more than one-half (1/2) by number of the]~~ members, if management of the limited liability company is vested in the members, or of the managers, if the management of the limited liability company is vested in managers, shall be required to decide any matter connected with the business affairs of the limited liability company.

(2) Unless otherwise provided in writing in the operating agreement, the affirmative vote, approval, or consent of ***the majority-in-interest of the***~~[all]~~ members shall be required to:

(a) Amend a written operating agreement;

(b) Authorize a manager or member to do any act on behalf of the limited liability company that contravenes a written operating agreement, including any written provision thereof which expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof; or

(c) Amend the articles of organization to change the management of the limited liability company from members to managers or from managers to members.

(3) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, for all purposes of this chapter, the members of a limited liability company shall vote, approve, or consent in proportion to their contributions, based upon the agreed-on value as stated in the records of the limited liability company as required by KRS 275.185, made by each member to the extent they have been received by the limited liability company and have not been returned.

Section 30. KRS 275.180 is amended to read as follows:

A written~~[The]~~ operating agreement may:

(1) Eliminate or limit the personal liability of a member or manager for monetary damages for breach of any duty provided for in KRS 275.170; and

(2) Provide for indemnification of a member or manager for judgments, settlements, penalties, fines, or expenses incurred in a proceeding to which a person is a party because the person is or was a member or manager.

Section 31. KRS 275.205 is amended to read as follows:

Profits and losses of a limited liability company shall be allocated among the members and among classes of members in ***the***[~~a~~] manner provided in the operating agreement. If ***a written***[~~the~~] operating agreement does not otherwise provide, profits and losses shall be allocated on ***the basis of the agreed-on value, as stated in the records of the limited liability company as required by KRS 275.185, of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned***[~~a per capita basis~~].

Section 32. KRS 275.210 is amended to read as follows:

Except as otherwise provided in KRS[~~ 275.215 and~~] 275.310, distributions of cash or other assets of a limited liability company shall be allocated among the members and among classes of members in the manner provided in writing in an operating agreement. If ***the***[~~an~~] operating agreement does not so provide in writing, each member shall share[~~ equally~~] in any distribution ***on the basis of the agreed-on value, as stated in the records of the limited liability company as required by KRS 275.185, of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned***. A member shall be entitled to receive distributions described in this section from a limited liability company to the extent and at the times or upon the happenings of the events specified in an operating agreement or at the times determined by the members or managers pursuant to KRS 275.175.

Section 33. KRS 275.220 is amended to read as follows:

Unless otherwise provided in ***a written***[~~an~~] operating agreement:

(1) A member, regardless of the nature of the member's contribution, shall not have a right to demand and receive any distribution from the limited liability company in any form other than cash; and

(2) A member shall not be compelled to accept from a limited liability company a distribution of any asset in kind to the extent that the percentage of the asset distributed to the member exceeds the percentage that the member would have shared in a cash distribution equal to the value of the property at the time of distribution.

Section 34. KRS 275.245 is amended to read as follows:

(1) Except as provided in subsection ***(2)***[~~(5)~~] of this section, property of the limited liability company held in the name of the limited liability company may be transferred by an instrument of transfer executed by any member ***so authorized*** in the name of the limited liability company.

(2)[~~Property of the limited liability company that is held in the name of one (1) or more members or managers with an indication in the instrument transferring the property to them of their capacity as members or managers of the limited liability company or of the existence of a limited liability company, if the name of the limited liability company is not indicated, may be transferred by an instrument of transfer executed by the persons in whose name title is held.~~

~~(3) Property transferred under subsection (1) or (2) of this section may be recovered by a limited liability company if the limited liability company proves that the execution of the instrument of transfer did not bind the limited liability company under KRS 275.135, unless the property has been transferred by the initial transferee or person claiming through the initial transferee to a subsequent transferee who gives value without having notice that the person who executed the instrument of initial transfer lacked authority to bind the limited liability company.~~

~~(4) Property of the limited liability company held in the name of one (1) or more persons other than the limited liability company, without an indication in the instrument transferring title to the property to them of their capacity as members or managers of the limited liability company or of the existence of a limited liability company, may be transferred free of any claims of the limited liability company or the members by the persons in whose name title is held to a transferee who gives value without having notice that it is property of a limited liability company.~~

~~(5)~~] If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

- (a) Title to property of the limited liability company that is held in the name of the limited liability company may be transferred by an instrument of transfer executed by any manager ***so authorized*** in the name of the limited liability company; and
- (b) A member, solely by reason of being a member, shall not have authority to transfer property of the limited liability company.

Section 35. KRS 275.260 is amended to read as follows:

On application to a court of competent jurisdiction by any judgment creditor of a member, the court ***shall***[~~may~~] charge the member's limited liability company interest with payment of the unsatisfied amount of judgment with interest thereon. To the extent so charged, the judgment creditor shall have only the rights of an assignee of the member's limited liability company interest. This chapter shall not deprive any member of the benefit of any exemption laws applicable to the member's limited liability company interest.

Section 36. KRS 275.265 is amended to read as follows:

(1) Unless otherwise provided in a written operating agreement, an assignee of a limited liability company interest shall become a member only if ***a majority-in-interest of the members***[~~the other members unanimously~~] consent. The consent

of a member may be evidenced in any manner specified in writing in an operating agreement, but in the absence of specification, consent shall be evidenced by one (1) or more written instruments, dated and signed by ***the requisite***[~~all~~] members.

(2) An assignee who becomes a member shall have, to the extent assigned, the rights and powers and shall be subject to the restrictions and liabilities of a member under the articles of organization, any ***written*** operating agreement, and this chapter. An assignee who becomes a member also shall be liable for any obligations of his assignor to make contributions under KRS 275.200. However, the assignee shall not be obligated for liabilities of which the assignee had no knowledge at the time he became a member and which could not be ascertained from the articles of organization or any written operating agreement.

(3) Unless otherwise provided in a written operating agreement, the assignor shall not be released from his liability to the limited liability company under KRS 275.200, whether or not an assignee of a limited liability company interest becomes a member.

(4) Unless otherwise provided in a written operating agreement, a member who assigns his entire limited liability company interest shall cease to be a member or to have the power to exercise any rights of the member when the assignee becomes a member with respect to the entire assigned interest.

(5) Unless otherwise set forth in the operating agreement, a successor in interest to a member who is disassociated from the limited liability company shall have the rights and obligations of an assignee with respect to the member's interest.

Section 37. KRS 275.280 is amended to read as follows:

(1) A person shall ***disassociate from the limited liability company and*** cease to be a member of a limited liability company upon the occurrence of one (1) or more of the following events:

- (a) ***Subject to the provisions of subsection (3) of this section,*** the member withdraws by voluntary act from the limited liability company[~~ as provided in subsection (3) of this section~~];
- (b) The member ceases to be a member of the limited liability company as provided in KRS 275.265;
- (c) The member is removed as a member:
  1. In accordance with a written operating agreement; or
  2. Unless otherwise provided in a written operating agreement, when the member assigns all of the member's interest in the limited liability company, ***upon receipt of***[~~by~~] the written consent of ***a majority-in-interest of the***[~~all~~] members who have not assigned their interest;
- (d) Unless otherwise provided[~~ in writing~~] in a written operating agreement or by written consent of ***majority-in-interest of the***[~~all~~] members, at the time the member:
  1. Makes an assignment for the benefit of creditors;
  2. Files a voluntary petition in bankruptcy;
  3. Is adjudicated bankrupt or insolvent;
  4. Files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;
  5. Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature; or
  6. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's property;
- (e) Unless otherwise provided in a written operating agreement or by written consent of ***a majority-in-interest of the***[~~all~~] members ***remaining*** at the time, if within one hundred twenty (120) days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within one hundred twenty (120) days after the appointment without the member's consent or acquiescence of a trustee, receiver, or liquidator of the member, or of all or any substantial part of the member's properties, the appointment is not vacated or stayed or within one hundred twenty (120) days after the expiration of any stay, the appointment is not vacated;
- (f) Unless otherwise provided in a written operating agreement or by written consent of ***a majority-in-interest of the***[~~all~~] members ***remaining*** at the time, in the case of a member that is an individual:
  1. The member's death; or
  2. The entry of an order by a court of competent jurisdiction adjudicating the member incompetent to manage his or her person or estate;

(g) Unless otherwise provided[~~ in writing~~] in a written operating agreement or by written consent of ***a majority-in-interest of the***[~~all~~] members ***remaining*** at the time, in the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee;

(h) Unless otherwise provided[~~ in writing~~] in a written operating agreement or by written consent of ***a majority-in-interest of the***[~~all~~] members ***remaining*** at the time, in the case of a member that is a separate limited liability company, the dissolution and commencement of winding up of the separate limited liability company;

(i) Unless otherwise provided[~~ in writing~~] in a written operating agreement or by written consent of ***the majority-in-interest of the***[~~all~~] members ***remaining*** at the time, in the case of a member that is a corporation, the filing of articles of dissolution or the equivalent for the corporation or the revocation of its articles of incorporation and the lapse of ninety (90) days after notice to the corporation of revocation without a reinstatement of its articles of incorporation; or

(j) Unless otherwise provided[~~ in writing~~] in a written operating agreement or by written consent of ***a majority-in-interest of the***[~~all~~] members ***remaining*** at the time, in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

(2) The members may provide in a written operating agreement for other events the occurrence of which shall result in a person ceasing to be a member of the limited liability company.

(3) Unless ***otherwise provided in*** a written operating agreement***, a member has no right to withdraw by voluntary act from a limited company. If the written operating agreement does not specify a time a member may withdraw, a member shall not withdraw prior to the time for the dissolution and winding up of the limited liability company's affairs without the consent of the majority-in-interest of the other members remaining at the time***[~~ provides in writing that a member has no power to withdraw by voluntary act from a limited liability company, the member may do so at any time by giving thirty (30) days written notice to the other members, or other notice as provided in a written operating agreement. If the member has the power to withdraw but the withdrawal is a breach of an operating agreement, or the withdrawal occurs as a result of otherwise wrongful conduct of the member, the limited liability company may recover from the withdrawing member damages for breach of the operating agreement or as a result of the wrongful conduct, including the reasonable cost of obtaining replacement of the services the withdrawing member was obligated to perform and may offset the damages against the amount otherwise distributable to the withdrawing member, in addition to pursuing any remedies provided in an operating agreement or otherwise available under applicable law. Unless otherwise provided in an operating agreement, in the case of a limited liability company for a definite term or particular undertaking, a withdrawal by a member before the expiration of that term shall constitute a breach of the operating agreement~~].

Section 38. KRS 275.285 is amended to read as follows:

A limited liability company shall be dissolved and its affairs wound up upon the happening of the first to occur of the following:

(1) ***The expiration of the term of the limited liability company set forth in the articles of incorporation, if any,***[~~At the time~~] or upon the occurrence of events specified in the articles of organization or a written operating agreement;

(2) ***Unless otherwise set forth in the operating agreement,*** the written consent of ***a majority-in-interest of the members of a limited liability company***[~~all members~~];

(3)[~~ Any event of disassociation of a member, unless:~~

~~(a) The business of the limited liability company is continued by the consent of all the remaining members on or before the ninetieth day following the occurrence of the event; or~~

~~(b) Otherwise provided in a written operating agreement;~~

~~(4)~~] Entry of a decree of judicial dissolution under KRS 275.290; or

(4)[~~(5)~~] Filing of a certificate of dissolution by the Secretary of State under KRS 275.295.

Section 39. KRS 275.295 is amended to read as follows:

(1) The Secretary of State may commence a proceeding to administratively dissolve a limited liability company if:

(a) The limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days after the annual report is due;

(b) The limited liability company is without a registered agent or registered office in Kentucky for at least sixty (60) days; or

(c) The limited liability company does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued.

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for

dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days ***from the date on which***~~[after service of the]~~ notice ***was mailed***~~[is perfected]~~, the Secretary of State shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the limited liability company ***by mailing the notice by first class mail to the limited liability company at its registered office***.

(3) (a) A limited liability company administratively dissolved under subsection (2) of this section may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the limited liability company and the effective date of its administrative dissolution;
2. State that the ground or grounds for dissolution either did not exist or have been eliminated;
3. State that the limited liability company's name satisfies the requirements under KRS 275.100;
4. Contain a certificate from the Kentucky Revenue Cabinet stating that all taxes owed by the limited liability company have been paid; and
5. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report as provided for in KRS 275.055(1).

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and
2. Serve a copy on the limited liability company.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company shall resume carrying on business as if the administrative dissolution had never occurred.

(4) (a) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company with a written notice that explains the reason or reasons for denial by mailing notice by first-class mail to the limited liability company at its registered office or, if none, to the last principal office identified on the most recent annual report.

(b) The limited liability company may appeal the denial of reinstatement to the Circuit Court of the county where the limited liability company's principal office, or, if there is none in Kentucky, its registered office, is located within thirty (30) days after service of the notice of denial by doing the following:

1. Filing a petition with the court to set aside the dissolution; and
2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as are other civil proceedings.

Section 40. KRS 275.350 is amended to read as follows:

(1) Unless otherwise provided in a written operating agreement, a limited liability company that is a party to a proposed merger shall approve the plan of merger in KRS 275.355 by ***a majority-in-interest of the members***~~[the unanimous consent of the members]~~.

(2) Each business entity that is a party to a proposed merger shall approve the plan of merger in the manner and by the vote required by the laws applicable to the business entity.

(3) Each business entity that is a party to the merger shall have the rights to abandon the merger as provided for in the plan of merger or in the laws applicable to the business entity.

Section 41. KRS 275.365 is amended to read as follows:

A merger shall have the following effects:

(1) The constituent business entities that are parties to the merger shall be a single entity, which shall be the entity designated in the plan of merger as the surviving business entity.

(2) Each party to the merger, except the surviving business entity, shall cease to exist.

(3) The surviving business entity shall possess all the rights, privileges, immunities, and powers of each constituent business

entity and shall be subject to all the restrictions, disabilities, and duties of each of the constituent entities to the extent the rights, privileges, immunities, powers, restrictions, disabilities, and duties are applicable to the type of business entity that is the surviving business entity.

(4) All property, real, personal, and mixed, and all debts due on whatever account, including promises to make capital contributions and subscriptions for shares, and all other choses in action, and all and every other interest of, belonging to, or due to each of the constituent business entities shall be vested in the surviving business entity without further act or deed.

(5) The title to all real estate and any interest therein, vested in any constituent business entity shall not revert or be in any way impaired by reason of the merger.

(6) The surviving entity shall thenceforth be liable for all liabilities and obligations of each of the constituent business entities merged, and any claim existing or action or proceeding pending by or against any constituent business entity may be prosecuted as if the merger had not taken place, or the surviving business entity may be substituted in the action.

(7) Neither the rights of creditors nor any liens on the property of any constituent business entity shall be impaired by the merger.

(8) The interests in a limited liability company or other business entities that are to be converted or exchanged into interests, other securities, cash, obligations, or other property under the terms of the plan of merger are so converted and the former holders thereof are entitled only to the rights provided in the plan of merger or the rights otherwise provided by law.

(9) A partner or, in the case of a limited partnership, a general partner who becomes a member of a limited liability company as a result of a merger, as the case may be, shall remain liable as a partner or general partner for an obligation incurred by the partnership or limited partnership before the merger takes effect. The partner's or general partner's liability for all other obligations of the limited liability company incurred after the merger takes effect shall be that of a member as provided in this chapter. A limited partner who becomes a member as a result of a merger shall remain liable only as a limited partner for an obligation incurred by the limited partnership before the merger takes effect.

Section 42. KRS 292.310 is amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, but "agent" does not include an individual who represents an issuer in:

(a) Effecting a transaction in a security exempted by subsections (1), (2), (3), (10), or (11) of KRS 292.400, or subsections (5), (9), or (12) thereof if no commission or other remuneration is received for the sale of such securities,

(b) Effecting transactions exempted by KRS 292.410 unless otherwise required, or

(c) Effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions is an agent only if he otherwise comes within this definition;

(2) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(a) An agent, issuer, bank, savings institution, or trust company,

(b) A person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

(c) A person who has no place of business in this state if during any period of twelve (12) consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in paragraph (b);

(3) "Certified" means, when used in regard to financial statements, examined and reported upon in accordance with generally accepted auditing standards with an opinion expressed by a certified public accountant;

(4) "Commissioner" means the commissioner of the Department of Financial Institutions;

(5) "Fraud," "deceit," and "defraud" are not limited to common-law deceit;

(6) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends;

(7) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(a) A bank, savings institution, or trust company;

(b) A lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;

(c) A broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them;

(d) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;

(e) A person whose advice, analyses, or reports relate only to securities exempted by KRS 292.400(1);

(f) A person who has no place of business in this state if:

1. His only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

2. During any period of twelve (12) consecutive months he does not direct business communications into this state in any manner to more than five (5) clients other than those specified in subparagraph 1., or

(g) Such other persons not within the intent of this subsection as the director may by rule or order designate;

(8) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued, and except that with respect to fractional undivided interests in oil, gas, or other mineral rights, the term "issuer" means the owner of any such right or of an interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of distribution;

(9) "Nonissuer" means not directly or indirectly for the benefit of the issuer;

(10) "Person" means an individual, ***a limited liability company,*** a corporation, a partnership, ***a registered limited liability partnership, a limited partnership,*** an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(11) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer, of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;

(12) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after January 1, 1961;

(13) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest in or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract or variable annuity contract issued by any insurance company;

(14) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico;

(15) Nothing in this section shall be construed to affect the classification of property for ad valorem tax purposes.

Section 43. KRS 304.9-020 is amended to read as follows:

An "agent" is an individual, firm, ***partnership, limited partnership,***[~~or~~] corporation***, or limited liability company appointed by an insurer to solicit applications for insurance or annuity contracts or to negotiate insurance or annuity contracts on its behalf, and if authorized to do so by the insurer, to effectuate and countersign insurance contracts*** [~~appointed by an insurer~~

~~to solicit applications for insurance or annuity contracts or to negotiate insurance or annuity contracts on its behalf, and if authorized to do so by the insurer, to effectuate and countersign insurance contracts~~].

Section 44. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, ***including a registered limited liability partnership, limited partnership, limited liability company,*** firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, ***including registered limited liability partnerships, limited partnerships, limited liability companies,*** corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for

deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services, Cabinet for Workforce Development. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an arbitrator or administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 45. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter, an owner or owners of a business, including qualified partners of a partnership owning a business, or ***qualified*** members of a limited liability company, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee if the owner, owners, qualified partners, or ***qualified*** members of a limited liability company elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of the owners, partners, or members of a limited liability company to provide coverage for their employees, nonqualified partners, or ***nonqualified*** members, if any, required under this chapter.

(2) When an owner, owners, qualified partners, or ***qualified*** members of a limited liability company have elected to be

included as employees, this inclusion shall be accomplished by the issuance of an appropriate endorsement to a workers' compensation insurance policy.

(3) For the purpose of this section, "qualified partner" ***or "qualified member or members"*** means***, respectively,*** a partner who has entered into a meaningful partnership agreement ***or a member who has entered into meaningful articles of organization or a meaningful operating agreement of a limited liability company,*** which ***document*** shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership ***or limited liability company*** and that the partner ***or member*** has made some contribution to the partnership ***or limited liability company*** which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership ***or limited liability company***.

(4) For the purposes of this section, "nonqualified partner" ***or "nonqualified member"*** means***, respectively,*** a person who has entered into a partnership agreement***, or articles of organization or operating agreement of a limited liability company,*** which ***document*** shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership ***or limited liability company***; that the person will not participate in the decision-making of the partnership ***or limited liability company*** and will not participate in the profits and losses of the business engaged in by the partnership ***or limited liability company***.

(5) Every partnership filing a partnership agreement ***and every limited liability company filing articles of organization or an operating agreement*** for the purpose of exemption pursuant to the provisions of KRS 342.340 shall, on or before April 15 of each year, file with the commissioner the ***employer***[~~partnership~~] identification number assigned to the partnership ***or limited liability company*** by the Internal Revenue Service. On or before April 15 of each year, each partnership ***and each limited liability company*** having ***a partnership agreement, operating***[~~an~~] agreement***, or articles of organization*** on file with the commissioner shall file a copy of the tax return of the partnership ***or limited liability company*** with the commissioner. Failure to comply with the provisions of this subsection shall be prima facie evidence that the partnership agreement ***or limited liability company articles of organization*** filed with the commissioner is composed***, respectively,*** of "nonqualified partners" ***or "nonqualified members", respectively,*** as defined in this section, and the commissioner shall promptly notify interested government agencies of the failure of the filed partnership agreement ***or limited liability company articles of organization or operating agreement*** to indicate compliance with KRS 342.340. With particular reference to employers engaged in coal mining, the commissioner shall promptly report the failure to comply with the provisions of this subsection to the Department of Mines and Minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

(6) For purposes of this section, a "limited liability company" means an entity defined in KRS 275.015 and organized under the provisions of KRS Chapter 275.

Section 46. KRS 342.195 is amended to read as follows:

The notice and claim shall be given to the employer, or if the employer is a partnership, then to any one (1) of the ***general*** partners. If the employer is a corporation ***or a limited liability company***, the notice or claim may be given to any agent of the corporation ***or limited liability company*** upon whom process may be served, or to any officer of the corporation ***or any member or manager, as the case may be, of the limited liability company authorized to manage the limited liability company under its articles of incorporation*** or ***to any*** agent of the corporation ***or limited liability company*** in charge of the business at the place where the injury occurred. Notice or claim may be given by delivery to any such person or as provided in KRS 342.135.

Section 47. KRS 355.9-401 is amended to read as follows:

(1) The proper place to file in order to perfect a security interest is as follows:

  (a) Except for equine or interests therein defined in KRS 355.9-109(3), when the collateral is equipment used in farming operations, or farm products, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the county clerk in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the county clerk in the county where the goods are kept, and in addition when the collateral is crops growing or to be grown in the office of the county clerk in the county where the land is located;

  (b) When the collateral is timber to be cut or is minerals or the like (including oil and gas), other than coal, or accounts subject to subsection (5) of KRS 355.9-103, other than accounts arising out of the sale of coal, or when the financing statement is filed as a fixture filing (KRS 355.9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded, and where they shall be indexed separately from mortgage instruments; and

  (c) In all other cases, if the debtor is a resident of this state in the office of the county clerk in the county of the debtor's residence or, if the debtor is a nonresident of this state, then in the office of the Secretary of State of the Commonwealth of Kentucky. The Secretary of State may collect a fee of eight dollars ($8) for each filing in his office under this section.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is

nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in KRS 355.9-103 determine whether filing is necessary in this state.

(5) For the purposes of this section:

(a) An individual debtor for whom filing is controlled by subsection (1)(c) of this section shall be deemed a resident of the county in which the debtor's principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(b) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(c) A limited partnership organized under KRS Chapter 362 shall be deemed a resident of the county in which its office is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;

(d) A limited partnership not organized under the laws of this state and authorized to do business in this state under KRS Chapter 362 shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(e) A corporation organized under KRS Chapter 271B, 273**,** or 274 ***or a limited liability company organized under KRS Chapter 275*** shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;

(f) A corporation not organized under the laws of this state**,** ***but***[~~and~~] authorized to transact or do business in this state under KRS Chapter 271B, 273**,** or 274***, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275,*** shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent[~~corporate~~] filing with the Secretary of State which officially designates its current registered office;

(g) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(h) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(i) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;

(j) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and

(k) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited partnership or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

Section 48. KRS 360.027 is amended to read as follows:

(1) No limited partnership***, limited liability company,*** or business trust shall hereafter plead or set up the taking of more than the legal rate of interest, as a defense to any action brought against it to recover damages on, or enforce payment of, or other remedy on, any mortgage, bond, note or other obligation, executed or assumed by such limited partnership**,** ***limited liability, or business trust***, provided, that this section shall not apply to any action instituted subsequent to June 16, 1972, upon any mortgage, bond, note or other obligation executed or assumed by such limited partnership or business trust prior to June 16, 1972.

(2) The provisions of subsection (1) of this section shall not apply to a limited partnership***, limited liability company,*** or business trust, the principal asset of which shall be the ownership of a one (1) or two (2) family dwelling.

Section 49. KRS 362.407 is amended to read as follows:

(1) Each limited partnership shall continuously maintain in this state:

(a)[~~(1)~~] An office which may, but need not be, a place of its business in this state, at which shall be kept the records required by KRS 362.409 to be maintained; and

(b)[~~(2)~~] An agent for service of process on the limited partnership, which agent shall be an individual resident of this state, a domestic corporation,[~~ or~~] a foreign corporation authorized to do business in this state***, a domestic limited liability company, or a foreign limited liability company authorized to do business in this state.***

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 50. KRS 362.465 is amended to read as follows:

Unless otherwise provided in a partnership agreement, a limited partner ***has no right to withdraw by voluntary act*** from a limited partnership[~~ at the time or upon the happening of an event specified in writing in the partnership agreement~~]. If the partnership agreement does not specify ***a time a limited partner may withdraw, a limited partner may not withdraw prior to the time for the dissolution and winding up of the limited partnership without the unanimous consent of the partners***[~~in writing the time or the events upon the happening of which a limited partner may withdraw, or set forth a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six (6) months' prior written notice to each general partner at his address as set forth in the certificate of limited partnership~~].

Section 51. KRS 362.467 is amended to read as follows:

Except as provided in KRS 362.473, upon withdrawal, a withdrawing partner shall receive any distribution to which he is entitled in writing under the partnership agreement.[~~ If not otherwise provided in writing in the partnership agreement, he shall receive, within a reasonable time after withdrawal, the fair value of his interest in the limited partnership as of the date of withdrawal based upon his right to share in distributions from the limited partnership.~~]

Section 52. KRS 362.415 is amended to read as follows:

(1) In order to form a limited partnership, a certificate of limited partnership shall be executed and filed with the Secretary of State. The certificate shall be in the form prescribed by the Secretary of State and shall set forth:

(a) The name of the limited partnership;

(b) The address of the office and the name and address of the agent for service of process required to be maintained by KRS 362.407;

(c) The name and the business address of each general partner;

(d) A mailing address for the limited partnership;

(e) The latest date upon which the limited partnership is to dissolve; and

(f) Any other matters the general partners determine to include therein.

(2) A limited partnership shall be formed at the time of the filing of the certificate of limited partnership with the Secretary of State or at any later time specified in the certificate of limited partnership, which shall be a date certain and shall not be later than the ninetieth day after the date it is filed, if, in either case, there has been substantial compliance with the requirements of this section.

(3) Unless the registered agent signs the certificate, the limited partnership shall deliver with the certificate of limited partnership the consent of appointment of the agent for service of process to be maintained by KRS 362.407.

Section 53. KRS 362.481 is amended to read as follows:

On application to a court of competent jurisdiction by any judgment creditor of a partner, the court ***shall***[~~may~~] charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor shall have only the rights of an assignee of the partnership interest. KRS 362.403 to 362.525 shall not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

Section 54. KRS 362.497 is amended to read as follows:

(1) Before transacting business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State one (1) original and one (1) exact or conformed copy of an application for registration as a foreign limited partnership, in the form prescribed by the Secretary of State, signed by a general partner and setting forth:

(a) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state:

(b) The state and date of its formation;

(c) The name and address of any agent for service of process on the foreign limited partnership. The agent shall be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;

(d) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the appointed agent's authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence;

(e) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

(f) The name and the business address of each general partner; and

(g) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.

(2) The execution by a general partner of an application for registration as a foreign limited partnership, the execution of a certificate amending the application pursuant to KRS 362.503 and the execution of a certificate of cancellation pursuant to KRS 362.505 shall constitute an affirmation under the penalties of perjury that the facts stated there are true.

(3) Unless the registered agent signs the application, the foreign limited partnership shall deliver with the application the consent of appointment of the agent for service of process.

Section 55. KRS 362.555 is amended to read as follows:

(1) To become and to continue as a registered limited liability partnership, a partnership shall file with the Secretary of State a statement or a renewal statement, as the case may be, stating the name of the partnership; the address of its principal office[~~, if the partnership's principal office is not located in this state~~]; the number of partners; a brief statement of the business in which the partnership engages; and that the partnership registers its status or renews its status, as the case may be, as a registered limited liability partnership.

(2) The statement or renewal statement shall be executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a statement or renewal statement.

(3) The statement or renewal statement shall be accompanied by a fee of two hundred dollars ($200).

(4) The Secretary of State shall register as a registered limited liability partnership, and shall renew the registration of any registered limited liability partnership, any partnership that submits a completed statement or renewal statement with the required fee.

(5) Registration shall be effective for one (1) year after the date a statement is filed, unless voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a withdrawal notice. Registration, whether pursuant to an original statement or a renewal statement, as a registered limited liability partnership shall be renewed if, during the sixty (60) day period preceding the date the statement or renewal statement otherwise would have expired, the partnership files with the Secretary of State a renewal statement. Registration pursuant to a renewal statement shall expire one (1) year after the date the registration would have expired if the last renewal of the registration had not occurred.

(6) The status of a partnership as a registered limited liability partnership shall not be affected by changes made in the information stated in the statement or renewal statement after the filing of the statement or renewal statement.

(7) The Secretary of State may provide forms for use under this section.

Section 56. KRS 365.015 is amended to read as follows:

(1) The real name of ***an individual***[~~a person~~] shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestic general partnership is that name which includes the real name of at least one (1) of the partners; ***the real name of a registered limited liability partnership is the name stated in its statement of registered limited liability partnership filed under KRS Chapter 362;*** the real name of a domestic limited partnership is that name stated in its certificate of limited partnership filed pursuant to KRS Chapter 362; the real name of a domestic business trust is the name set forth in the declaration of trust;[~~ and~~] the real name of a domestic corporation is the name set forth in its articles of incorporation***; and the real name of a domestic limited liability company is the name set forth in its articles of organization***. The real name of a foreign general ***partnership, including a foreign registered limited liability partnership,*** or limited partnership and of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name or the fictitious name adopted for use in this state; ***the real name of a foreign registered limited liability partnership is the name stated in its statement of foreign registered limited liability partnership filed under KRS Chapter 362;***[~~and~~] the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under KRS 271B.15-060***; and the real name of a foreign limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this state under KRS 275.410***.

(2) (a) No ***individual***[~~person~~], general ***partnership, including a registered limited liability partnership,***[~~or~~] limited

partnership, business trust***,***[~~ or~~] corporation***, or limited liability company*** shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such ***individual, partnership, limited partnership***[~~person, partnership~~], business trust***,***[~~ or~~] corporation***, or limited liability company*** has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of ***the*** person, partnership, ***limited partnership,*** business trust***,***[~~ or~~] corporation***, or limited liability company*** and his or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other[~~ assumed name or any corporate name or any foreign limited partnership~~] name previously filed ***and on record*** with the Secretary of State;

(e) The certificate shall be executed and acknowledged for ***an individual***[~~a person~~], by the ***individual***[~~person~~]; for a general partnership, by ***at least one (1) partner authorized to do so by***[~~all~~] the partners; for a limited partnership, by a general partner; for a business trust, by the trustees; for a corporation, by any person authorized to act for the corporation***; and for a limited liability company, by a member or manager authorized to act for the limited liability company***.

(3) ***The certificate of assumed name for an individual shall be filed with the county clerk where the person is deemed a resident for the purposes of and under the provisions of KRS Chapter 355. The certificate of assumed name for a general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity is deemed a resident for the purposes of and under the provisions of KRS Chapter 355. If the entity is not deemed a resident of a county in the Commonwealth, the entity shall file only with the Secretary of State***[~~The certificate of assumed name for a person shall be filed with the county clerk of each county wherein business will be conducted or transacted under an assumed name. The certificate of assumed name for a general or limited partnership, business trust or corporation shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy for each county wherein business will be conducted or transacted under such assumed name. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of each county wherein business will be conducted or transacted under the assumed name~~].

(4) ***An assumed name shall be effective for a term of five (5) years from the date of registration and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.***

(5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party transacting business and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for a general partnership***, including a registered limited liability partnership,*** by ***at least one (1) partner authorized to do so by***[~~all~~] the partners, for a limited partnership by a general partner, for a business trust by the trustees,[~~ and~~] for a corporation by any person authorized to act for the corporation***, and for a limited liability company by a member or manager authorized to act for the limited liability company***.

(6)[~~(5)~~] A general partnership shall amend an assumed name to reflect a change in the identity of partners. The amendment shall set forth:

(a) The assumed name and date of original filing;

(b) A statement setting out the changes in identity of the partners; and

(c) Shall be signed by ***at least one (1) partner authorized to do so by***[~~all~~] the [~~general~~]partners.

(7)[~~(6)~~] The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars ($20) for filing each certificate and amendment.

Section 57. KRS 275.310 is amended to read as follows:

Upon the winding up of a limited liability company, the assets shall be distributed as follows:

(1) Payment, or adequate provisions for payment, shall be made to creditors, including, to the extent permitted by law, members who are creditors in satisfaction of liabilities of the limited liability company;

(2) Unless otherwise provided in a written operating agreement, to members or former members in satisfaction of liabilities for distributions under KRS 275.210[~~ and 275.215~~]; and

(3) Unless otherwise provided in a written operating agreement, to members and former members first for the return of their contributions and second in proportion to the members' respective rights to share in distributions from the limited liability company prior to dissolution.

Section 58. The following KRS sections are repealed:

275.215 Effect of event of disassociation which does not cause dissolution.

275.270 Member's legal representative to have rights of assignee if member dies or is declared incompetent.

The Committee Substitute to **HB 666** is as follows:

AN ACT relating to commerce.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.208 is amended to read as follows:

(1) For the purposes of this section, "limited liability company" shall mean any company subject to the provisions of KRS Chapter 275.

(2) Any limited liability company ***shall be***[~~which is~~] treated[~~ as a partnership for federal income tax purposes shall be treated as a partnership in accordance with the provisions of KRS 141.206~~] for Kentucky income tax purposes ***in the same manner as its tax treatment for federal***

[~~(3) Any limited liability company which is treated as a corporation for federal income tax purposes shall be treated as a corporation in accordance with the provisions of KRS 141.040 for Kentucky~~] income tax purposes.

Section 2. KRS 142.050 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Deed" means any document, instrument, or writing other than a will and other than a lease or easement, regardless of where made, executed, or delivered, by which any real property in Kentucky, or any interest therein, is conveyed, vested, granted, bargained, sold, transferred, or assigned.

(b) "Value" means:

1. In the case of any deed not a gift, the amount of the full actual consideration therefor, paid or to be paid, including the amount of any lien or liens thereon; and

2. In the case of a gift, or any deed with nominal consideration or without stated consideration, the estimated price the property would bring in an open market and under the then prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

(2) A tax upon the grantor named in the deed shall be imposed at the rate of fifty cents ($0.50) for each $500 of value or fraction thereof, which value is declared in the deed upon the privilege of transferring title to real property.

(3) (a) If any deed evidencing a transfer of title subject to the tax herein imposed is offered for recordation, the county clerk shall ascertain and compute the amount of the tax due thereon and shall collect the amount as prerequisite to acceptance of the deed for recordation.

(b) The amount of tax shall be computed on the basis of the value of the transferred property as set forth in the deed.

(c) The tax required to be levied by this section shall be collected only once on each transaction and in the county in which the deed is required to be recorded by KRS 382.110(1).

(4) The county clerk shall collect the amount due and certify the date of payment and the amount of collection on the deed. The county clerk shall retain five percent (5%) as his fee for collection and remit the balance every three (3) months to the county treasurer, who shall deposit the money in the county general fund.

(5) The Revenue Cabinet may prescribe regulations necessary to carry out the purposes of this section.

(6) Any county clerk who willfully shall record any deed upon which a tax is imposed by this section without collecting the proper amount of tax and certifying the date and amount of collection on the deed as required by this section based on the declared value indicated in the affidavit appended to the deed shall, upon conviction, be fined $50 for each offense.

(7) The tax imposed by this section shall not apply to a transfer of title:

(a) Recorded prior to March 27, 1968;

(b) To, in the event of a deed of gift or deed with nominal consideration, or from the United States of America, this state, any city or county within this state, or any instrumentality, agency, or subdivision hereof;

(c) Solely in order to provide or release security for a debt or obligation;

(d) Which confirms or corrects a deed previously recorded;

(e) Between husband and wife, or between former spouses as part of a divorce proceeding;

(f) On sale for delinquent taxes or assessments;

(g) On partition;

(h) Pursuant to***:***

1. Merger or consolidation between and among corporations, partnerships, including registered limited liability partnerships, limited partnerships, or limited liability companies; or

2. The conversion of a general partnership, including a registered limited liability partnership, or a limited partnership into a limited liability company[~~mergers of corporations~~];

(i) ***Between***[~~By~~] a subsidiary corporation ***and***[~~to~~] its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of ***either corporation's***[~~the subsidiary's~~] stock;

(j) Under a foreclosure proceeding;

(k) ***Between a person and***[~~By an individual to~~]a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the transferor of the property in the entity to which the property was transferred, if the transfer was for nominal consideration;

(l) Between parent and child or grandparent and grandchild, with only nominal consideration therefor;[~~ and~~]

(m) By a corporation, general partnership, limited partnership, registered limited liability partnership, or limited liability company to ***a person as***[~~an individual~~] owner or shareholder of the entity, upon dissolution of the entity, in an amount equal to the portion of the value of the real property transferred that represents the proportionate interest of the ***person***[~~individual owner~~] to whom the property was transferred, if the transfer was for nominal consideration***;***

(n) Between a trustee and a successor trustee; and

(o) Between a limited liability company and any of its members.

(8) The tax imposed by subsection (2) of this section shall not apply to transfers to a trustee, to be held in trust, or from a trustee to a beneficiary of the trust if:

(a) The grantor is the sole beneficiary of the trust;

(b) The grantor is a beneficiary of the trust and a direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section; or

(c) A direct transfer from the grantor of the trust to all other individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to one (1) of the provisions of subsection (7) of this section.

(9) As used in this section, "trust" shall have the same definition as contained in KRS 386.800.

Section 3. KRS 271B.1-220 is amended to read as follows:

(1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him for filing:

(a)	Articles of incorporation	$ 40
(b)	Application for use of indistinguishable name	$ 20
(c)	Application for reserved name	$ 15
(d)	Notice of transfer of reserved name	$ 15
(e)	Application for registered name	$ 36
(f)	Application for renewal of registered name	$ 36
(g)	Corporation's statement of change of registered agent or registered office, or both	$ 10
(h)	Agent's statement of change of registered office for each affected corporation	$ 10
	not to exceed a total of	$1,000
(i)	Amendment of articles of incorporation	$ 40
(j)	Restatement of articles of incorporation	$ 40
(k)	Amended and restated articles	$ 80
(l)	Articles of merger or share exchange	$ 50

(m)	Articles of dissolution	$ 40
(n)	Articles of revocation of dissolution	$ 15
(o)	Reinstatement penalty following administrative dissolution	$ 100
(p)	Application for certificate of authority	$ 90
(q)	Application for amended certificate of authority	$ 40
(r)	Application for certificate of withdrawal	$ 40
(s)	Annual report	$ 15
(t)	Articles of correction	$ 20
(u)	[~~Application for~~]Certificate of existence or authorization	$ 10
(v)	Any other document required or permitted to be filed by this chapter	$ 15
(w)	Agent's statement of resignation	No fee
(x)	Certificate of administrative dissolution	No fee
(y)	Certificate of reinstatement	No fee
(z)	Certificate of judicial dissolution	No fee
(aa)	Certificate of revocation of authority to transact business	No fee

(2) The Secretary of State shall collect a fee of ten dollars ($10) each time process is served on him under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if he prevails in the proceeding.

(3) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

(a) Fifty cents ($0.50) a page for copying; and

(b) Five dollars ($5) for the certificate.

(4) The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to corporations.

Section 4. KRS 271B.1-400 is amended to read as follows:

In this chapter:

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlining, shall be considered conspicuous.

(4) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this chapter.

(5) "Deliver" includes mail.

(6) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(7) "Effective date of notice" is defined in KRS 271B.1-410.

(8) "Employee" includes an officer but not a director. A director may accept duties that make him also an employee.

(9) "Entity" includes corporation and foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government.

(10) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(11) "Governmental subdivision" includes authority, county, district, and municipality.

(12) "Includes" denotes a partial definition.

(13) "Individual" includes the estate of an incompetent or deceased individual.

(14) "Means" denotes an exhaustive definition.

(15) "Notice" is defined in KRS 271B.1-410.

(16) "Person" includes individual and entity.

(17) "Principal office" means the office (in or out of this state) so designated in ***writing to the Secretary of State***[~~the annual report~~] where the principal executive offices of a domestic or foreign corporation are located.

(18) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(19) "Record date" means the date established under Subtitles 6 or 7 on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date, unless another time for doing so is specified when the record date is fixed.

(20) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under subsection (3) of KRS 271B.8-400 for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(21) "Share" means the unit into which the proprietary interests in a corporation are divided.

(22) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(23) "State" when referring to a part of the United States, includes a state and Commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States.

(24) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(25) "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

(26) "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

Section 5. KRS 271B.2-020 is amended to read as follows:

(1) The articles of incorporation shall set forth:
  (a) A corporate name for the corporation that satisfies the requirements of KRS 271B.4-010;
  (b) The number of shares the corporation is authorized to issue;
  (c) The street address of the corporation's initial registered office and the name of its initial registered agent at that office;
  (d) The mailing address of the corporation's principal office; and
  (e) The name and mailing address of each incorporator.

(2) The articles of incorporation may set forth:
  (a) The names and mailing addresses of the individuals who are to serve as the initial directors;
  (b) Provisions not inconsistent with law regarding:
    1. The purpose or purposes for which the corporation is organized;
    2. Managing the business and regulating the affairs of the corporation;
    3. Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;
    4. A par value for authorized shares or classes of shares; and
    5. The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;
  (c) Any provision that under this chapter is required or permitted to be set forth in the bylaws; and
  (d) A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of his duties as a director, provided that such provision shall not eliminate or limit the liability of a director:
    1. For any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation or its shareholders;
    2. For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law;
    3. For any vote for or assent to an unlawful distribution to shareholders as prohibited under KRS 271B.8-330; or
    4. For any transaction from which the director derived an improper personal benefit.

  No such provision shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when such provision becomes effective. In no case shall this subsection or any such provision be construed to expand the liability of any director as determined pursuant to KRS 271B.8-300.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(4) Unless the registered agent signs the articles, the corporation shall deliver with the articles of incorporation the registered agent's written consent to the appointment.

Section 6. KRS 271B.5-010 is amended to read as follows:

(1) Each corporation shall continuously maintain in this state:

- ***(a)***[~~(1)~~] A registered office that may be the same as any of its places of business; and
- ***(b)***[~~(2)~~] A registered agent, who may be:
  - ***1.***[~~(a)~~] An individual who resides in this state and whose business office is identical with the registered office;
  - ***2.***[~~(b)~~] A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office;[~~ or~~]
  - ***3.***[~~(c)~~] A foreign corporation or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office***;***
  - ***4. A domestic limited liability company or a foreign limited liability company authorized to transact business in the state whose business office is identical with the registered office; or***
  - ***5. A domestic limited partnership or foreign limited partnership authorized to transact business in the state whose business office is identical with the registered office.***

(2) Unless the registered agent signs the document making the appointment, the appointment of the registered agent or a successor registered agent on whom process may be given is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 7. KRS 271B.10-020 is amended to read as follows:

Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt one (1) or more amendments to the corporation's articles of incorporation without shareholder action:

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the Secretary of State;

(4) ***To delete the mailing address of the corporation's initial principal office if the statement containing the mailing address of new principal office is on file with the Secretary of State;***

(5) To change each issued and unissued authorized share of an outstanding class into a greater number of whole shares if the corporation has only shares of that class outstanding;

(6)[~~(5)~~] To change the corporate name by substituting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name; or

(7)[~~(6)~~] To make any other change expressly permitted by this chapter to be made without shareholder action.

Section 8. KRS 271B.11-080 is amended to read as follows:

(1) One (1) or more domestic or foreign limited liability companies or limited partnerships may merge with one (1) or more domestic corporations if:

- (a) The merger is permitted by the laws of the state or country under whose law each foreign limited liability company or limited partnership is incorporated, organized, or formed, and each foreign limited liability company or limited partnership complies with those laws in effecting the merger;
- (b) Each domestic limited liability company party to the merger complies with the applicable provisions of the Kentucky Revised Statutes;
- (c) Each domestic limited partnership party to the merger complies with the applicable provisions of KRS Chapter 362;
- (d) Each domestic corporation complies with the applicable provisions of KRS 271B.11-010 to 271B.11-040.

(2) The plan of merger shall set forth:

- (a) The name of each constituent business entity that is a party to the merger and the name of the surviving business entity into which each constituent business entity proposes to merge;
- (b) The terms and conditions of the proposed merger, including but not limited to, a statement which sets forth

whether limited liability is retained by the surviving business entity;

(c) The manner and basis of converting the shares in each corporation and the interests in each business entity that is a party to the merger into interests, shares, or other securities or obligations, as the case may be, of the surviving entity, or of any other business entity, or, in whole or in part, into cash or other property;

(d) The amendments to the articles of organization of a limited liability company, or articles of incorporation of a corporation or certificate of limited partnership, as the case may be, of the surviving business entity as are desired to be effected by the merger, or that no changes are desired;

(e) Other provisions relating to the proposed merger that are deemed necessary or desirable.

(3) The business entity surviving from the merger shall deliver to the Secretary of State for filing articles of merger duly executed by each constituent business entity setting forth:

(a) The name and jurisdiction of formation or organization of each constituent business entity which is to merge;

(b) The plan of merger;

(c) The name of the surviving business entity;

(d) A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with the laws applicable to such business entity; and

(e) If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:

1. Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and

2. Appoints the Secretary of State as its agent for service of process in any such proceeding. The surviving entity shall specify the address to which a copy of the process shall be mailed to it by the Secretary of State.

(4) The articles of merger filed by the surviving entity in accordance with this section shall also be deemed to have been filed for any domestic limited liability company party to the merger in accordance with the applicable sections of the Kentucky Revised Statutes and for any domestic limited partnership party to the merger in accordance with KRS Chapter 362.

(5) Upon merger taking effect, if the surviving entity in the merger is a foreign limited partnership, limited liability company, or corporation, the surviving entity shall be deemed:

(a) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger;

(b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger the amount, if any, to which they are entitled under Subtitle 13 of KRS Chapter 271B; and

(c) To agree, to the extent required by Section 200 of the Constitution, that the courts of this Commonwealth shall retain jurisdiction over that part of the corporate property within the limits of this Commonwealth in all matters which may arise, as if the transaction has not taken place.

(6) If a domestic or foreign limited liability company or limited partnership is the surviving entity of a merger, the surviving domestic or foreign limited liability company or limited partnership shall be considered a surviving corporation for purposes of KRS 271B.11-060(1).

(7) A partner or, in the case of a limited partnership, a general partner who becomes a shareholder of a corporation as a result of a merger shall remain liable as a partner or general partner, as the case may be, for an obligation incurred by the partnership or limited partnership before the merger takes effect. The partner's or general partner's liability for all obligations of the corporation incurred before the merger takes effect shall be that of a shareholder as provided in this chapter. A limited partner who becomes a shareholder as a result of a merger shall remain liable only as a limited partner for an obligation incurred by the limited partnership before the merger takes effect.

Section 9. KRS 271B.13-010 is amended to read as follows:

As used in this subtitle:

(1) "Corporation" means the issuer of the shares held by a dissenter***, except that in the case of a merger where the issuing corporation is not the surviving corporation, then, after consummation of the merger, "corporation" shall mean the surviving corporation***[~~before the corporate action, or the surviving or acquiring corporation by merger or share exchange of that issuer~~].

(2) "Dissenter" means a shareholder who is entitled to dissent from corporate action under KRS 271B.13-020 and who exercises that right when and in the manner required by KRS 271B.13-200 to 271B.13-280.

(3) "Fair value," with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable. In any transaction subject to the requirements of KRS 271B.12-210 or exempted by KRS 271B.12-220(2), "fair value" shall be at least an amount required to be paid under KRS 271B.12-220(2) in order to be exempt from the requirements of KRS 271B.12-210.

(4) "Interest" means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

(5) "Record shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(6) "Beneficial shareholder" means the person who is a beneficial owner of shares held in a voting trust or by a nominee as the record shareholder.

(7) "Shareholder" means the record shareholder or the beneficial shareholder.

Section 10. KRS 271B.15-030 is amended to read as follows:

(1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the Secretary of State for filing. The application shall set forth:

  (a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of KRS 271B.15-060;

  (b) The name of the state or country under whose law it is incorporated;

  (c) Its date of incorporation and period of duration;

  (d) The street address of its principal office;

  (e) The address of its registered office in this state and the name of its registered agent at that office; and

  (f) The names and usual business addresses of its current directors and officers.

(2) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import) duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated.

(3) Unless the registered agent signs the application, the foreign corporation shall deliver with the application for certificate of authority the registered agent's written consent to the appointment.

Section 11. KRS 271B.15-070 is amended to read as follows:

(1) Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:

  (a)[~~(1)~~] A registered office that may be the same as any of its places of business; and

  (b)[~~(2)~~] A registered agent, who may be:

    1.[~~(a)~~] An individual who resides in this state and whose business office is identical with the registered office;

    2.[~~(b)~~] A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office; or

    3.[~~(c)~~] A foreign corporation or foreign not-for-profit corporation authorized to transact business in this state whose business office is identical with the registered office***;***

    4. A domestic limited liability company or a foreign limited liability company authorized to transact business in the state whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 12. KRS 273.182 is amended to read as follows:

(1) Each corporation shall continuously maintain in this state:

  (a)[~~(1)~~] A registered office that may be the same as any of its places of business; and

  (b)[~~(2)~~] A registered agent, who may be:

    1.[~~(a)~~] An individual who resides in this state and whose business office is identical with the registered office;

    2.[~~(b)~~] A domestic corporation or nonprofit domestic corporation whose business office is identical with the registered office;[~~ or~~]

    3.[~~(c)~~] A foreign corporation or nonprofit foreign corporation authorized to transact business in this state whose business office is identical with the registered office***; or***

4. A domestic limited liability company or a foreign limited liability company authorized to transact business in the state whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment..

Section 13. KRS 273.247 is amended to read as follows:

(1) The articles of incorporation shall set forth:

(a) The name of the corporation;

(b) The purpose or purposes for which the corporation is organized;

(c) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including any provision for distribution of assets or dissolution or final liquidation;

(d) The street address of the corporation's initial registered office and the name of its initial registered agent at that address;

(e) The mailing address of the corporation's principal office;

(f) The number of directors constituting the initial board of directors, and the names and mailing addresses of the persons who are to serve as the initial directors; and

(g) The name and mailing address of each incorporator.

(2) It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in KRS 273.163 to 273.387.

(3) Unless its articles of incorporation provide otherwise, every corporation shall be presumed to have perpetual duration and succession in its corporate name.

(4) Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, when a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

(5) Unless the registered agent signs the articles, the corporation shall deliver with the articles of incorporation the registered agent's written consent to the appointment.

Section 14. KRS 273.2521 is amended to read as follows:

(1) The Secretary of State ***may***~~[shall]~~prescribe and furnish on request forms for:

(a) ~~[An application for]~~A certificate of existence;

(b) A foreign corporation's application for a certificate of authority to transact business in this state;

(c) A foreign corporation's application for a certificate of withdrawal;

(d) A change of registered office or registered agent;

(e) The annual report.

If the Secretary of State so requires, use of these forms shall be mandatory.

(2) The Secretary of State ***may***~~[shall]~~ prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter. Use of these forms shall ***not*** be mandatory.

Section 15. KRS 273.361 is amended to read as follows:

(1) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the Secretary of State for filing. The application shall set forth:

(a) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of KRS 273.364;

(b) The name of the state or country under whose law it is incorporated;

(c) Its date of incorporation and period of duration;

(d) The street address of its principal office;

(e) The address of its registered office in this state and the name of its registered agent at that office; and

(f) The names and usual business addresses of its current directors and officers.

(2) The foreign corporation shall deliver with the completed application a certificate of existence, or a document of similar import, duly authenticated by the Secretary of State or other official having custody of corporate records in the state or county under whose law it is incorporated.

(3) Unless the registered agent signs the application, the foreign corporation shall deliver, with the application for certificate of authority, the registered agent's written consent to the appointment.

Section 16. KRS 273.3641 is amended to read as follows:

(1) Each foreign corporation authorized to transact business in this state shall continuously maintain in this state:

(a)[~~(1)~~] A registered office that may be the same as any of its places of business; and

(b)[~~(2)~~] A registered agent, who may be:

1.[~~(a)~~] An individual who resides in this state and whose business office is identical with the registered office;

2.[~~(b)~~] A domestic corporation or nonprofit domestic corporation whose business office is identical with the registered office; or

3.[~~(c)~~] A foreign corporation or foreign nonprofit corporation authorized to transact business in this state whose business office is identical with the registered office.

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 17. KRS 273.357 is amended to read as follows:

The dissolution of a corporation either (1) by the filing of articles of dissolution with the Secretary of State, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in KRS 273.161 to 273.390[~~, or (3) by expiration of its period of duration,~~] shall not take away or impair any remedy available to or against ***the***[~~such~~] corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to ***the***[~~such~~] dissolution if action or other proceeding thereon is commenced within two (2) years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers ***may***[~~shall have power to~~] take[~~ such~~] corporate or other action[~~ as shall be~~] appropriate to protect ***the***[~~such~~] remedy, right***,*** or claim.[~~ If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two (2) years so as to extend its period of duration.~~]

Section 18. KRS 273.368 is amended to read as follows:

(1) In respect of the following documents, the fees to be collected by the Secretary of State for filing[~~ and issuing~~], when required by this chapter, shall be:

(a) Articles of incorporation[~~ and a certificate of incorporation~~], eight dollars ($8);

(b) Articles of amendment[~~ and a certificate of amendment~~], eight dollars ($8);

(c) Restated articles of incorporation[~~ and restated certificate of incorporation~~], eight dollars ($8);

(d) Articles of merger or consolidation[~~ and a certificate of merger or consolidation~~], eight dollars ($8);

(e) Articles of dissolution[~~ and certificate of dissolution~~], five dollars ($5);

(f) A statement of change of address of registered office or change of registered agent, or both[~~, by the Secretary of State~~], five dollars ($5);

(g)[~~A statement by a foreign corporation designating a resident process agent, by the Secretary of State, five dollars ($5);~~

~~(h)~~] An annual report by a domestic corporation[~~, by the Secretary of State~~], four dollars ($4);

(h)[~~(i)~~] An annual report by a foreign corporation[~~, by the Secretary of State~~], eight dollars ($8);

(i)[~~(j)~~] ***Application for certificate of authority, forty dollars ($40)***[~~Certified copy of the articles of incorporation and existing amendments, by the Secretary of State, twenty-five dollars ($25) as an original filing fee, and a recording fee of ten dollars ($10); ten dollars ($10) for recording subsequent amendments~~]; and

(j)[~~(k)~~] Any other statement or report of a foreign or domestic corporation, eight dollars ($8).

(2) For recording any documents, as required by this chapter, the county clerk shall be entitled to the fees specified in KRS 64.012.

Section 19. KRS 274.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Professional service corporation" means a corporation organized under this chapter.

(2) "Foreign professional service corporation" means a corporation for profit organized for the purpose of rendering professional services under a law other than the law of this state.

(3) "Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which, prior to the passage of this chapter and by reason of law or a professional code of ethics, could not be performed by a corporation. The personal

services which come within the provisions of this chapter are the personal services rendered by, but not limited to, certified public accountants, public accountants, chiropractors, osteopaths, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropodists, architects, veterinarians, optometrists and attorneys-at-law.

(4) "Qualified person" means a natural person, general partnership, ***limited liability company, registered limited liability partnership,*** or professional service corporation which is eligible under this chapter to own shares issued by a professional service corporation.

(5) "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional service corporation is organized to render.

Section 20. KRS 274.017 is amended to read as follows:

(1) A professional service corporation may issue and a shareholder thereof may transfer or pledge shares, fractional shares, and rights or options to purchase shares only to:

(a) Natural persons who are authorized by law in this state or in any other state or territory of the United States or the District of Columbia to render a professional service permitted by the articles of incorporation of the corporation;

(b) General partnerships***, including registered limited liability partnerships,*** in which all the partners are qualified persons with respect to such professional corporation and in which at least one (1) partner is authorized by law in this state to render a professional service permitted by the articles of incorporation of the corporation;[~~ and~~]

(c) ***A professional limited liability company, domestic or foreign, authorized by law in this state to render a professional service permitted by the articles of organization of the limited liability company; and***

(d) Professional service corporations, domestic or foreign, authorized by law in this state to render a professional service permitted by the articles of incorporation of the corporation.

(2) Any issuance or transfer of shares in violation of this section shall be void; however, nothing herein contained shall prohibit the transfer of shares of a professional corporation by operation of law or court decree.

Section 21. KRS 275.015 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Articles of organization" means the articles filed in conformity with the provisions of KRS 275.020 and 275.025, and those articles as amended or restated.

(2) "Business entity" means domestic and foreign limited liability companies, general and limited partnerships, ***including registered limited liability partnerships,*** corporations, business trusts, and sole proprietorships.

(3) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country.

(4) "Court" means every court having jurisdiction in the case.

(5) "Event of disassociation" means an event that causes a person to cease to be a member as provided in KRS 275.280.

(6) "Foreign limited liability company" means an organization that is:

(a) An unincorporated association;

(b) Organized under laws of a state other than the laws of this Commonwealth, or under the laws of any foreign country; and

(c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity.

(7) "Knowledge" means actual knowledge of a fact.

(8) "Limited liability company" or "domestic limited liability company" means ***a limited liability company***[~~an unincorporated association~~] formed under this chapter ***having one (1) or more members***.

(9) "Limited liability company interest" or "interest in the limited liability company" means the interest that may be issued in accordance with KRS 275.195.

(10) "Limited partnership" means a limited partnership formed under the laws of the Commonwealth or any other state or a foreign country.

(11) ***"Majority-in-interest of the members" means those members entitled to cast a majority of the votes to be cast by the members on any matter under the terms of the operating agreement described in subsection (3) of Section 29 of this Act.***

(12) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by managers, the person or persons designated in accordance with KRS 275.165.

(13)[~~(12)~~] "Member" or "members" means a person or persons who have been admitted to membership in a limited liability company as provided in KRS 275.275 and who have not ceased to be members as provided in KRS 275.280.

(14)[~~(13)~~] "Operating agreement" means any agreement, written or oral, among all of the members, as to the conduct of the business and affairs of a limited liability company. If a written operating agreement contains a provision to the effect that any amendment to the operating agreement of the limited liability company shall be in writing and adopted in accordance with the provisions of the operating agreement, the provision shall be enforceable in accordance with its terms, and any agreement as to the conduct of the business and affairs of the limited liability company which is not in writing and adopted in accordance with the provisions of the operating agreement shall not be considered part of the operating agreement and shall be void and unenforceable. ***If a limited liability company has only one (1) member, an operating agreement shall be deemed to include:***

(a) ***A writing executed by the member that relates to the affairs of the limited liability company and the conduct of its business regardless of whether the writing constitutes an agreement; or***

(b) ***If the limited liability company is managed by a manager, any other agreement between the member and the limited liability company as it relates to the limited liability company and the conduct of its business, regardless of whether the agreement is in writing.***

(15)[~~(14)~~] "Person" means an individual, a general partnership, a limited liability partnership, ***including a registered limited liability partnership,*** a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal entity.

(16)[~~(15)~~] "Principal office" means the office, in or out of the Commonwealth, so designated in writing with the Secretary of State where the principal executive offices of a domestic or foreign limited liability company are located.

(17)[~~(16)~~] "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(18)[~~(17)~~] "Proceeding" means civil suit and criminal, administrative, and investigative action.

(19)[~~(18)~~] "Professional limited liability company" means a limited liability company organized under this chapter or the laws of another state or foreign country for purposes that include, but are not limited to, the providing of one (1) or more professional services. Except as otherwise expressly provided in this chapter, all provisions of this chapter governing limited liability companies shall be applicable to professional limited liability companies.

(20)[~~(19)~~] "Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys.

(21)[~~(20)~~] "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional limited liability company is organized to provide.

Section 22. KRS 275.020 is amended to read as follows:

One (1) or more persons may ***serve as the organizer and*** form a limited liability company by delivering articles of organization to the Secretary of State for filing. It shall not be necessary that the person or persons be members of the limited liability company.

Section 23. KRS 275.025 is amended to read as follows:

(1) The articles of organization shall set forth:

(a) A name for the limited liability company that satisfies the requirements of KRS 275.100;

(b) The street address of the limited liability company's initial registered office, and the name of its initial registered agent at that office;

(c) The mailing address of the initial principal office of the limited liability company; ***and***

(d)[~~A statement that the limited liability company has at least two (2) or more members;~~

~~(e)~~] A statement that the limited liability company is to be managed by a manager or managers or that the limited liability company is to be managed by its members[~~; and~~

~~(f) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve~~].

(2) ***The term of a limited liability company shall be perpetual unless a period of duration other than perpetual is set forth in the articles of organization.***

(3) The articles of organization of a professional limited liability company shall designate the professional services to be practiced through the professional limited liability company.

(4)[~~(3)~~] The articles of organization may set forth any other matter that under this chapter is permitted to be set forth in an operating agreement not inconsistent with law.

(5)[~~(4)~~] A written statement of the initial registered agent consenting to serve in that capacity shall accompany the articles of organization.

(6)[~~(5)~~] A member of a limited liability company shall not have a vested property right resulting from any provision of the articles of organization.

Section 24. KRS 275.050 is amended to read as follows:

(1) The Secretary of State shall prescribe and furnish on request forms for:

- (a) A certificate of existence or authorization;
- (b) An application for a certificate of authority;
- (c) An application for a certificate of withdrawal;
- (d) A statement of change of registered office or registered agent;
- (e) A statement of change of principal office address;
- (f) The annual report; and
- (g) Amended application for certificate of authority.

(2) The Secretary of State shall have the discretion to make mandatory the use of the forms referred to in subsection (1) of this section.

(3) The Secretary of State ***may***~~[shall]~~ prescribe and furnish on request forms for other documents required or permitted to be filed pursuant to this chapter, but their use shall not be mandatory.

Section 25. KRS 275.135 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, every member shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any member, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is a member, shall bind the limited liability company, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the member is dealing has knowledge or has received notification of the fact that the member has no such authority.

(2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

- (a) No member, solely by reason of being a member, shall be an agent of the limited liability company; and
- (b) Every manager shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any manager, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is the manager shall bind the limited liability company, unless the manager so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge or has received notification of the fact that the manager has no such authority.

(3) An act of a manager or a member which is apparently not for the carrying on in the usual way of the business or affairs of the limited liability company shall not bind the limited liability company unless, at the time of the transaction or at any other time, the act is authorized in accordance with the operating agreement.

(4) An act of a manager or member in contravention of a restriction on authority shall not bind the limited liability company to persons having knowledge of the restriction.

(5) Unless otherwise set forth in a written operating agreement, a member or manager of a limited liability company has the power and authority to delegate to one (1) or more other persons the member's or manager's powers to manage or control the business and affairs of the limited liability company, including without limitation the power to delegate to agents and employees of a member, manager, or limited liability company or to delegate by an agreement to other persons. This delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager of the limited liability company.

Section 26. KRS 275.150 is amended to read as follows:

(1) Except as ***provided in subsection (2) of this section or as*** otherwise specifically set forth in ***other sections in*** this chapter, no member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall be personally liable by reason of being a member, manager, employee, or agent of the limited liability company, under a judgment, decree, or order of a court, agency, or tribunal of any type, or in any other manner, in this or any other state, or on any other basis, for a debt, obligation, or liability of the limited liability company, whether arising in contract, tort, or otherwise. The status of a person as a member, manager, employee, or agent of a limited liability company, including a professional limited liability company, shall not subject the person to personal liability for the acts or omissions, including any negligence, wrongful act, or actionable misconduct, of any other member, manager, agent, or employee of the limited liability company.

(2) Notwithstanding the provisions of subsection (1) of this section, under a written operating agreement or under another written agreement, a member or manager may agree to be obligated personally for any of the debts,

obligations, and liabilities of the limited liability company.

Section 27. KRS 275.165 is amended to read as follows:

(1) Unless the articles of organization vest management of the limited liability company in a manager or managers, management of the business and affairs of the limited liability company shall vest in the members. Subject to any provisions in the articles of organization, the operating agreement or this chapter restricting or enlarging the management rights and duties of any person or group or class of persons, the members shall have the right and authority to manage the affairs of the limited liability company and to make all decisions with respect thereto.

(2) If the articles of organization vest management of the limited liability company in one (1) or more managers, except to the extent otherwise provided in the articles of organization, the operating agreement, or this chapter, the manager or managers shall have exclusive power to manage the business and affairs of the limited liability company. Unless otherwise provided in the articles of organization or the operating agreement, managers:

(a) Shall be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of ***the majority-in-interest***~~[more than one-half (1/2) by number]~~ of the members;

(b) Shall not be required to be members of the limited liability company or natural persons; and

(c) Unless they are sooner removed or sooner resign, shall hold office until their successors shall have been elected and qualified.

Section 28. KRS 275.170 is amended to read as follows:

Unless otherwise provided in an operating agreement:

(1) A member or manager shall not be liable, responsible, or accountable in damages or otherwise to the limited liability company or the members of the limited liability company for any action taken or failure to act on behalf of the limited liability company unless the act or omission constitutes wanton or reckless misconduct.

(2) Each member and manager shall account to the limited liability company and hold as trustee for it any profit or benefit derived by that person without the consent of more than one-half (1/2) by number of the disinterested managers***, one-half (1/2) by number of other persons participating in the management of the business or affairs of the limited liability company,*** or ***the majority-in-interest of the*** members~~[or other persons participating in the management of the business or affairs of the limited liability company from]~~:

(a) Any transaction connected with the conduct or winding up of the limited liability company; or

(b) Any use by the member or manager of its property, including, but not limited to, confidential or proprietary information of the limited liability company or other matters entrusted to the person as a result of his status as manager or member.

(3) One who is a member of the limited liability company in which management is vested in managers under KRS 275.165(2) and who is not a manager shall have no duties to the limited liability company or the other members solely by reason of acting in his capacity as a member.

Section 29. KRS 275.175 is amended to read as follows:

(1) Unless otherwise provided in the articles of organization, ***a written***~~[an]~~ operating agreement, or this chapter,~~[and subject to subsection (2) of this section,]~~ the affirmative vote, approval, or consent of ***a majority-in-interest of the***~~[more than one-half (1/2) by number of the]~~ members, if management of the limited liability company is vested in the members, or of the managers, if the management of the limited liability company is vested in managers, shall be required to decide any matter connected with the business affairs of the limited liability company.

(2) Unless otherwise provided in writing in the operating agreement, the affirmative vote, approval, or consent of ***the majority-in-interest of the***~~[all]~~ members shall be required to:

(a) Amend a written operating agreement;

(b) Authorize a manager or member to do any act on behalf of the limited liability company that contravenes a written operating agreement, including any written provision thereof which expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof; or

(c) Amend the articles of organization to change the management of the limited liability company from members to managers or from managers to members.

(3) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, for all purposes of this chapter, the members of a limited liability company shall vote, approve, or consent in proportion to their contributions, based upon the agreed value as stated in the records of the limited liability company as required by KRS 275.185, made by each member to the extent they have been received by the limited liability company and have not been returned.

Section 30. KRS 275.180 is amended to read as follows:

A written~~[The]~~ operating agreement may:

(1) Eliminate or limit the personal liability of a member or manager for monetary damages for breach of any duty provided for in KRS 275.170; and

(2) Provide for indemnification of a member or manager for judgments, settlements, penalties, fines, or expenses incurred in a proceeding to which a person is a party because the person is or was a member or manager.

Section 31. KRS 275.205 is amended to read as follows:

Profits and losses of a limited liability company shall be allocated among the members and among classes of members in ***the***[~~a~~] manner provided in the operating agreement. If ***a written***[~~the~~] operating agreement does not otherwise provide, profits and losses shall be allocated on ***the basis of the agreed value, as stated in the records of the limited liability company as required by KRS 275.185, of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned***[~~a per capita basis~~].

Section 32. KRS 275.210 is amended to read as follows:

Except as otherwise provided in KRS[~~ 275.215 and~~] 275.310, distributions of cash or other assets of a limited liability company shall be allocated among the members and among classes of members in the manner provided in writing in an operating agreement. If ***the***[~~an~~] operating agreement does not so provide in writing, each member shall share[~~ equally~~] in any distribution ***on the basis of the agreed value, as stated in the records of the limited liability company as required by KRS 275.185, of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned***. A member shall be entitled to receive distributions described in this section from a limited liability company to the extent and at the times or upon the happenings of the events specified in an operating agreement or at the times determined by the members or managers pursuant to KRS 275.175.

Section 33. KRS 275.220 is amended to read as follows:

Unless otherwise provided in ***a written***[~~an~~] operating agreement:

(1) A member, regardless of the nature of the member's contribution, shall not have a right to demand and receive any distribution from the limited liability company in any form other than cash; and

(2) A member shall not be compelled to accept from a limited liability company a distribution of any asset in kind to the extent that the percentage of the asset distributed to the member exceeds the percentage that the member would have shared in a cash distribution equal to the value of the property at the time of distribution.

Section 34. KRS 275.245 is amended to read as follows:

(1) Except as provided in subsection ***(2)***[~~(5)~~] of this section, property of the limited liability company held in the name of the limited liability company may be transferred by an instrument of transfer executed by any member ***so authorized*** in the name of the limited liability company.

(2)[~~ Property of the limited liability company that is held in the name of one (1) or more members or managers with an indication in the instrument transferring the property to them of their capacity as members or managers of the limited liability company or of the existence of a limited liability company, if the name of the limited liability company is not indicated, may be transferred by an instrument of transfer executed by the persons in whose name title is held.~~

~~(3) Property transferred under subsection (1) or (2) of this section may be recovered by a limited liability company if the limited liability company proves that the execution of the instrument of transfer did not bind the limited liability company under KRS 275.135, unless the property has been transferred by the initial transferee or person claiming through the initial transferee to a subsequent transferee who gives value without having notice that the person who executed the instrument of initial transfer lacked authority to bind the limited liability company.~~

~~(4) Property of the limited liability company held in the name of one (1) or more persons other than the limited liability company, without an indication in the instrument transferring title to the property to them of their capacity as members or managers of the limited liability company or of the existence of a limited liability company, may be transferred free of any claims of the limited liability company or the members by the persons in whose name title is held to a transferee who gives value without having notice that it is property of a limited liability company.~~

~~(5)~~] If the articles of organization provide that management of the limited liability company is vested in a manager or managers:

(a) Title to property of the limited liability company that is held in the name of the limited liability company may be transferred by an instrument of transfer executed by any manager ***so authorized*** in the name of the limited liability company; and

(b) A member, solely by reason of being a member, shall not have authority to transfer property of the limited liability company.

Section 35. KRS 275.260 is amended to read as follows:

On application to a court of competent jurisdiction by any judgment creditor of a member, the court ***shall***[~~may~~] charge the member's limited liability company interest with payment of the unsatisfied amount of judgment with interest thereon. To the extent so charged, the judgment creditor shall have only the rights of an assignee of the member's limited liability company interest. This chapter shall not deprive any member of the benefit of any exemption laws applicable to the member's limited liability company interest.

Section 36. KRS 275.265 is amended to read as follows:

(1) Unless otherwise provided in a written operating agreement, an assignee of a limited liability company interest shall become a member only if ***a majority-in-interest of the members***[~~the other members unanimously~~] consent. The consent of a member may be evidenced in any manner specified in writing in an operating agreement, but in the absence of specification, consent shall be evidenced by one (1) or more written instruments, dated and signed by ***the requisite***[~~all~~] members.

(2) An assignee who becomes a member shall have, to the extent assigned, the rights and powers and shall be subject to the restrictions and liabilities of a member under the articles of organization, any ***written*** operating agreement, and this chapter. An assignee who becomes a member also shall be liable for any obligations of his assignor to make contributions under KRS 275.200. However, the assignee shall not be obligated for liabilities of which the assignee had no knowledge at the time he became a member and which could not be ascertained from the articles of organization or any written operating agreement.

(3) Unless otherwise provided in a written operating agreement, the assignor shall not be released from his liability to the limited liability company under KRS 275.200, whether or not an assignee of a limited liability company interest becomes a member.

(4) Unless otherwise provided in a written operating agreement, a member who assigns his entire limited liability company interest shall cease to be a member or to have the power to exercise any rights of the member when the assignee becomes a member with respect to the entire assigned interest.

(5) Unless otherwise set forth in the operating agreement, a successor in interest to a member who is disassociated from the limited liability company shall have the rights and obligations of an assignee with respect to the member's interest.

Section 37. KRS 275.280 is amended to read as follows:

(1) A person shall ***disassociate from the limited liability company and*** cease to be a member of a limited liability company upon the occurrence of one (1) or more of the following events:

(a) ***Subject to the provisions of subsection (3) of this section,*** the member withdraws by voluntary act from the limited liability company[~~ as provided in subsection (3) of this section~~];

(b) The member ceases to be a member of the limited liability company as provided in KRS 275.265;

(c) The member is removed as a member:

1. In accordance with a written operating agreement; or

2. Unless otherwise provided in a written operating agreement, when the member assigns all of the member's interest in the limited liability company, ***upon receipt of***[~~by~~] the written consent of ***a majority-in-interest of the***[~~all~~] members who have not assigned their interest;

(d) Unless otherwise provided[~~ in writing~~] in a written operating agreement or by written consent of ***majority-in-interest of the***[~~all~~] members, at the time the member:

1. Makes an assignment for the benefit of creditors;

2. Files a voluntary petition in bankruptcy;

3. Is adjudicated bankrupt or insolvent;

4. Files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

5. Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature; or

6. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's property;

(e) Unless otherwise provided in a written operating agreement or by written consent of ***a majority-in-interest of the***[~~all~~] members ***remaining*** at the time, if within one hundred twenty (120) days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within one hundred twenty (120) days after the appointment without the member's consent or acquiescence of a trustee, receiver, or liquidator of the member, or of all or any substantial part of the member's properties, the appointment is not vacated or stayed or within one hundred twenty (120) days after the expiration of any stay, the appointment is not vacated;

(f) Unless otherwise provided in a written operating agreement or by written consent of ***a majority-in-interest of***

the[~~all~~] members ***remaining*** at the time, in the case of a member that is an individual:

1. The member's death; or
2. The entry of an order by a court of competent jurisdiction adjudicating the member incompetent to manage his or her person or estate;

(g) Unless otherwise provided[~~ in writing~~] in a written operating agreement or by written consent of ***a majority-in-interest of the***[~~all~~] members ***remaining*** at the time, in the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee;

(h) Unless otherwise provided[~~ in writing~~] in a written operating agreement or by written consent of ***a majority-in-interest of the***[~~all~~] members ***remaining*** at the time, in the case of a member that is a separate limited liability company, the dissolution and commencement of winding up of the separate limited liability company;

(i) Unless otherwise provided[~~ in writing~~] in a written operating agreement or by written consent of ***the majority-in-interest of the***[~~all~~] members ***remaining*** at the time, in the case of a member that is a corporation, the filing of articles of dissolution or the equivalent for the corporation or the revocation of its articles of incorporation and the lapse of ninety (90) days after notice to the corporation of revocation without a reinstatement of its articles of incorporation; or

(j) Unless otherwise provided[~~ in writing~~] in a written operating agreement or by written consent of ***a majority-in-interest of the***[~~all~~] members ***remaining*** at the time, in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

(2) The members may provide in a written operating agreement for other events the occurrence of which shall result in a person ceasing to be a member of the limited liability company.

(3) Unless ***otherwise provided in*** a written operating agreement***, a member has no right to withdraw from a limited liability company. If the written operating agreement does not specify a time a member may withdraw, a member shall not withdraw without the consent of all other members remaining at the time***[~~ provides in writing that a member has no power to withdraw by voluntary act from a limited liability company, the member may do so at any time by giving thirty (30) days written notice to the other members, or other notice as provided in a written operating agreement. If the member has the power to withdraw but the withdrawal is a breach of an operating agreement, or the withdrawal occurs as a result of otherwise wrongful conduct of the member, the limited liability company may recover from the withdrawing member damages for breach of the operating agreement or as a result of the wrongful conduct, including the reasonable cost of obtaining replacement of the services the withdrawing member was obligated to perform and may offset the damages against the amount otherwise distributable to the withdrawing member, in addition to pursuing any remedies provided in an operating agreement or otherwise available under applicable law. Unless otherwise provided in an operating agreement, in the case of a limited liability company for a definite term or particular undertaking, a withdrawal by a member before the expiration of that term shall constitute a breach of the operating agreement~~].

Section 38. KRS 275.285 is amended to read as follows:

A limited liability company shall be dissolved and its affairs wound up upon the happening of the first to occur of the following:

(1) ***The expiration of the term of the limited liability company set forth in the articles of organization, if any,***[~~At the time~~] or upon the occurrence of events specified in the articles of organization or a written operating agreement;

(2) ***Unless otherwise set forth in the operating agreement,*** the written consent of ***a majority-in-interest of the members of a limited liability company***[~~all members~~];

(3)[~~ Any event of disassociation of a member, unless:~~

~~(a) The business of the limited liability company is continued by the consent of all the remaining members on or before the ninetieth day following the occurrence of the event; or~~

~~(b) Otherwise provided in a written operating agreement;~~

~~(4)~~] Entry of a decree of judicial dissolution under KRS 275.290; or

(4)[~~(5)~~] Filing of a certificate of dissolution by the Secretary of State under KRS 275.295.

Section 39. KRS 275.295 is amended to read as follows:

(1) The Secretary of State may commence a proceeding to administratively dissolve a limited liability company if:

(a) The limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days after the annual report is due;

(b) The limited liability company is without a registered agent or registered office in Kentucky for at least sixty (60) days; or

(c) The limited liability company does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued.

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination.

(b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days ***from the date on which***~~[after service of the]~~ notice ***was mailed***~~[is perfected]~~, the Secretary of State shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the limited liability company ***by mailing the notice by first class mail to the limited liability company at its registered office***.

(3) (a) A limited liability company administratively dissolved under subsection (2) of this section may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the limited liability company and the effective date of its administrative dissolution;
2. State that the ground or grounds for dissolution either did not exist or have been eliminated;
3. State that the limited liability company's name satisfies the requirements under KRS 275.100;
4. Contain a certificate from the Kentucky Revenue Cabinet stating that all taxes owed by the limited liability company have been paid; and
5. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report as provided for in KRS 275.055(1).

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and
2. Serve a copy on the limited liability company.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company shall resume carrying on business as if the administrative dissolution had never occurred.

(4) (a) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company with a written notice that explains the reason or reasons for denial by mailing notice by first-class mail to the limited liability company at its registered office or, if none, to the last principal office identified on the most recent annual report.

(b) The limited liability company may appeal the denial of reinstatement to the Circuit Court of the county where the limited liability company's principal office, or, if there is none in Kentucky, its registered office, is located within thirty (30) days after service of the notice of denial by doing the following:

1. Filing a petition with the court to set aside the dissolution; and
2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.

(c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.

(d) The court's final decision may be appealed as are other civil proceedings.

Section 40. KRS 275.350 is amended to read as follows:

(1) Unless otherwise provided in a written operating agreement, a limited liability company that is a party to a proposed merger shall approve the plan of merger in KRS 275.355 by ***a majority-in-interest of the members***~~[the unanimous consent of the members]~~.

(2) Each business entity that is a party to a proposed merger shall approve the plan of merger in the manner and by the vote required by the laws applicable to the business entity.

(3) Each business entity that is a party to the merger shall have the rights to abandon the merger as provided for in the plan of merger or in the laws applicable to the business entity.

Section 41. KRS 275.365 is amended to read as follows:

A merger shall have the following effects:

(1) The constituent business entities that are parties to the merger shall be a single entity, which shall be the entity designated in the plan of merger as the surviving business entity.

(2) Each party to the merger, except the surviving business entity, shall cease to exist.

(3) The surviving business entity shall possess all the rights, privileges, immunities, and powers of each constituent business entity and shall be subject to all the restrictions, disabilities, and duties of each of the constituent entities to the extent the rights, privileges, immunities, powers, restrictions, disabilities, and duties are applicable to the type of business entity that is the surviving business entity.

(4) All property, real, personal, and mixed, and all debts due on whatever account, including promises to make capital contributions and subscriptions for shares, and all other choses in action, and all and every other interest of, belonging to, or due to each of the constituent business entities shall be vested in the surviving business entity without further act or deed.

(5) The title to all real estate and any interest therein, vested in any constituent business entity shall not revert or be in any way impaired by reason of the merger.

(6) The surviving entity shall thenceforth be liable for all liabilities and obligations of each of the constituent business entities merged, and any claim existing or action or proceeding pending by or against any constituent business entity may be prosecuted as if the merger had not taken place, or the surviving business entity may be substituted in the action.

(7) Neither the rights of creditors nor any liens on the property of any constituent business entity shall be impaired by the merger.

(8) The interests in a limited liability company or other business entities that are to be converted or exchanged into interests, other securities, cash, obligations, or other property under the terms of the plan of merger are so converted and the former holders thereof are entitled only to the rights provided in the plan of merger or the rights otherwise provided by law.

(9) A partner or, in the case of a limited partnership, a general partner who becomes a member of a limited liability company as a result of a merger, as the case may be, shall remain liable as a partner or general partner for an obligation incurred by the partnership or limited partnership before the merger takes effect. The partner's or general partner's liability for all other obligations of the limited liability company incurred after the merger takes effect shall be that of a member as provided in this chapter. A limited partner who becomes a member as a result of a merger shall remain liable only as a limited partner for an obligation incurred by the limited partnership before the merger takes effect.

Section 42. KRS 292.310 is amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, but "agent" does not include an individual who represents an issuer in:

- (a) Effecting a transaction in a security exempted by subsections (1), (2), (3), (10), or (11) of KRS 292.400, or subsections (5), (9), or (12) thereof if no commission or other remuneration is received for the sale of such securities,
- (b) Effecting transactions exempted by KRS 292.410 unless otherwise required, or
- (c) Effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions is an agent only if he otherwise comes within this definition;

(2) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

- (a) An agent, issuer, bank, savings institution, or trust company,
- (b) A person who has no place of business in this state if he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or
- (c) A person who has no place of business in this state if during any period of twelve (12) consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in paragraph (b);

(3) "Certified" means, when used in regard to financial statements, examined and reported upon in accordance with generally accepted auditing standards with an opinion expressed by a certified public accountant;

(4) "Commissioner" means the commissioner of the Department of Financial Institutions;

(5) "Fraud," "deceit," and "defraud" are not limited to common-law deceit;

(6) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends;

(7) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(a) A bank, savings institution, or trust company;

(b) A lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;

(c) A broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them;

(d) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;

(e) A person whose advice, analyses, or reports relate only to securities exempted by KRS 292.400(1);

(f) A person who has no place of business in this state if:

1. His only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

2. During any period of twelve (12) consecutive months he does not direct business communications into this state in any manner to more than five (5) clients other than those specified in subparagraph 1., or

(g) Such other persons not within the intent of this subsection as the director may by rule or order designate;

(8) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued, and except that with respect to fractional undivided interests in oil, gas, or other mineral rights, the term "issuer" means the owner of any such right or of an interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of distribution;

(9) "Nonissuer" means not directly or indirectly for the benefit of the issuer;

(10) "Person" means an individual, ***a limited liability company,*** a corporation, a partnership, ***a registered limited liability partnership, a limited partnership,*** an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(11) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer, of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;

(12) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after January 1, 1961;

(13) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest in or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract or variable annuity contract issued by any insurance company;

(14) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico;

(15) Nothing in this section shall be construed to affect the classification of property for ad valorem tax purposes.

Section 43. KRS 304.9-020 is amended to read as follows:

An "agent" is an individual, firm, ***partnership, limited partnership,***~~[or]~~ corporation***, or limited liability company appointed by an insurer to solicit applications for insurance or annuity contracts or to negotiate insurance or annuity contracts on its***

behalf, and if authorized to do so by the insurer, to effectuate and countersign insurance contracts [~~appointed by an insurer to solicit applications for insurance or annuity contracts or to negotiate insurance or annuity contracts on its behalf, and if authorized to do so by the insurer, to effectuate and countersign insurance contracts~~].

Section 44. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines,

and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, ***including a registered limited liability partnership, limited partnership, limited liability company,*** firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, ***including registered limited liability partnerships, limited partnerships, limited liability companies,*** corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with

effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services, Cabinet for Workforce Development. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an arbitrator or administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 45. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter, an owner or owners of a business, including qualified partners of a partnership owning a business, or ***qualified*** members of a limited liability company, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee if the owner, owners, qualified partners, or ***qualified*** members of a limited liability company elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of the owners, partners, or members of a limited liability company to provide coverage for their employees, nonqualified partners, or

nonqualified members, if any, required under this chapter.

(2) When an owner, owners, qualified partners, or ***qualified*** members of a limited liability company have elected to be included as employees, this inclusion shall be accomplished by the issuance of an appropriate endorsement to a workers' compensation insurance policy.

(3) For the purpose of this section, "qualified partner" ***or "qualified member or members"*** means***, respectively,*** a partner who has entered into a meaningful partnership agreement ***or a member who has entered into meaningful articles of organization or a meaningful operating agreement of a limited liability company,*** which ***document*** shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership ***or limited liability company*** and that the partner ***or member*** has made some contribution to the partnership ***or limited liability company*** which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership ***or limited liability company***.

(4) For the purposes of this section, "nonqualified partner" ***or "nonqualified member"*** means***, respectively,*** a person who has entered into a partnership agreement***, or articles of organization or operating agreement of a limited liability company,*** which ***document*** shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership ***or limited liability company***; that the person will not participate in the decision-making of the partnership ***or limited liability company*** and will not participate in the profits and losses of the business engaged in by the partnership ***or limited liability company***.

(5) Every partnership filing a partnership agreement ***and every limited liability company filing articles of organization or an operating agreement*** for the purpose of exemption pursuant to the provisions of KRS 342.340 shall, on or before April 15 of each year, file with the commissioner the ***employer***[~~partnership~~] identification number assigned to the partnership ***or limited liability company*** by the Internal Revenue Service. On or before April 15 of each year, each partnership ***and each limited liability company*** having ***a partnership agreement, operating***[~~an~~] agreement***, or articles of organization*** on file with the commissioner shall file a copy of the tax return of the partnership ***or limited liability company*** with the commissioner. Failure to comply with the provisions of this subsection shall be prima facie evidence that the partnership agreement ***or limited liability company articles of organization*** filed with the commissioner is composed***, respectively,*** of "nonqualified partners" ***or "nonqualified members", respectively,*** as defined in this section, and the commissioner shall promptly notify interested government agencies of the failure of the filed partnership agreement ***or limited liability company articles of organization or operating agreement*** to indicate compliance with KRS 342.340. With particular reference to employers engaged in coal mining, the commissioner shall promptly report the failure to comply with the provisions of this subsection to the Department of Mines and Minerals so that appropriate action may be undertaken pursuant to KRS 351.175.

(6) For purposes of this section, a "limited liability company" means an entity defined in KRS 275.015 and organized under the provisions of KRS Chapter 275.

Section 46. KRS 342.195 is amended to read as follows:

The notice and claim shall be given to the employer, or if the employer is a partnership, then to any one (1) of the ***general*** partners. If the employer is a corporation ***or a limited liability company***, the notice or claim may be given to any agent of the corporation ***or limited liability company*** upon whom process may be served, or to any officer of the corporation ***or any member or manager, as the case may be, of the limited liability company authorized to manage the limited liability company under its articles of incorporation*** or ***to any*** agent of the corporation ***or limited liability company*** in charge of the business at the place where the injury occurred. Notice or claim may be given by delivery to any such person or as provided in KRS 342.135.

Section 47. KRS 355.9-401 is amended to read as follows:

(1) The proper place to file in order to perfect a security interest is as follows:

(a) Except for equine or interests therein defined in KRS 355.9-109(3), when the collateral is equipment used in farming operations, or farm products, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the county clerk in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the county clerk in the county where the goods are kept, and in addition when the collateral is crops growing or to be grown in the office of the county clerk in the county where the land is located;

(b) When the collateral is timber to be cut or is minerals or the like (including oil and gas), other than coal, or accounts subject to subsection (5) of KRS 355.9-103, other than accounts arising out of the sale of coal, or when the financing statement is filed as a fixture filing (KRS 355.9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded, and where they shall be indexed separately from mortgage instruments; and

(c) In all other cases, if the debtor is a resident of this state in the office of the county clerk in the county of the debtor's residence or, if the debtor is a nonresident of this state, then in the office of the Secretary of State of the Commonwealth of Kentucky. The Secretary of State may collect a fee of eight dollars ($8) for each filing in his office under this section.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in KRS 355.9-103 determine whether filing is necessary in this state.

(5) For the purposes of this section:

(a) An individual debtor for whom filing is controlled by subsection (1)(c) of this section shall be deemed a resident of the county in which the debtor's principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(b) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(c) A limited partnership organized under KRS Chapter 362 shall be deemed a resident of the county in which its office is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;

(d) A limited partnership not organized under the laws of this state and authorized to do business in this state under KRS Chapter 362 shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(e) A corporation organized under KRS Chapter 271B, 273***,*** or 274 ***or a limited liability company organized under KRS Chapter 275*** shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;

(f) A corporation not organized under the laws of this state***, but***[~~and~~] authorized to transact or do business in this state under KRS Chapter 271B, 273***,*** or 274***, or a limited liability company not organized under the laws of this state, but authorized to transact business in this state under KRS Chapter 275,*** shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent[~~ corporate~~] filing with the Secretary of State which officially designates its current registered office;

(g) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(h) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(i) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;

(j) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and

(k) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited partnership or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

Section 48. KRS 360.027 is amended to read as follows:

(1) No limited partnership***, limited liability company,*** or business trust shall hereafter plead or set up the taking of more than the legal rate of interest, as a defense to any action brought against it to recover damages on, or enforce payment of, or other remedy on, any mortgage, bond, note or other obligation, executed or assumed by such limited partnership***,*** ***limited liability, or business trust***; provided, that this section shall not apply to any action instituted subsequent to June 16, 1972, upon any mortgage, bond, note or other obligation executed or assumed by such limited partnership or business trust prior to June 16, 1972.

(2) The provisions of subsection (1) of this section shall not apply to a limited partnership***, limited liability company,*** or business trust, the principal asset of which shall be the ownership of a one (1) or two (2) family dwelling.

Section 49. KRS 362.407 is amended to read as follows:

(1) Each limited partnership shall continuously maintain in this state:

(a)~~[(1)]~~ An office which may, but need not be, a place of its business in this state, at which shall be kept the records required by KRS 362.409 to be maintained; and

(b)~~[(2)]~~ An agent for service of process on the limited partnership, which agent shall be an individual resident of this state, a domestic corporation,~~[or]~~ a foreign corporation authorized to do business in this state***, a domestic limited liability company, or a foreign limited liability company authorized to do business in this state.***

(2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

Section 50. KRS 362.465 is amended to read as follows:

Unless otherwise provided in a partnership agreement, a limited partner ***has no right to withdraw*** from a limited partnership~~[at the time or upon the happening of an event specified in writing in the partnership agreement]~~. If the partnership agreement does not specify ***a time a limited partner may withdraw, a limited partner may not withdraw prior to the time for the dissolution and winding up of the limited partnership without the unanimous consent of the partners***~~[in writing the time or the events upon the happening of which a limited partner may withdraw, or set forth a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six (6) months' prior written notice to each general partner at his address as set forth in the certificate of limited partnership]~~.

Section 51. KRS 362.467 is amended to read as follows:

Except as provided in KRS 362.473, upon withdrawal, a withdrawing partner shall receive any distribution to which he is entitled in writing under the partnership agreement.~~[If not otherwise provided in writing in the partnership agreement, he shall receive, within a reasonable time after withdrawal, the fair value of his interest in the limited partnership as of the date of withdrawal based upon his right to share in distributions from the limited partnership.]~~

Section 52. KRS 362.415 is amended to read as follows:

(1) In order to form a limited partnership, a certificate of limited partnership shall be executed and filed with the Secretary of State. The certificate shall be in the form prescribed by the Secretary of State and shall set forth:

(a) The name of the limited partnership;

(b) The address of the office and the name and address of the agent for service of process required to be maintained by KRS 362.407;

(c) The name and the business address of each general partner;

(d) A mailing address for the limited partnership;

(e) The latest date upon which the limited partnership is to dissolve; and

(f) Any other matters the general partners determine to include therein.

(2) A limited partnership shall be formed at the time of the filing of the certificate of limited partnership with the Secretary of State or at any later time specified in the certificate of limited partnership, which shall be a date certain and shall not be later than the ninetieth day after the date it is filed, if, in either case, there has been substantial compliance with the requirements of this section.

(3) Unless the registered agent signs the certificate, the limited partnership shall deliver with the certificate of limited partnership the consent of appointment of the agent for service of process to be maintained by KRS 362.407.

Section 53. KRS 362.481 is amended to read as follows:

On application to a court of competent jurisdiction by any judgment creditor of a partner, the court ***shall***~~[may]~~ charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor shall have only the rights of an assignee of the partnership interest. KRS 362.403 to 362.525 shall not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

Section 54. KRS 362.497 is amended to read as follows:

(1) Before transacting business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State one (1) original and one (1) exact or conformed copy of an application for registration as a foreign limited partnership, in the form prescribed by the Secretary of State, signed by a general partner and setting forth:

(a) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state:

(b) The state and date of its formation;

(c) The name and address of any agent for service of process on the foreign limited partnership. The agent shall be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;

(d) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the appointed agent's authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence;

(e) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

(f) The name and the business address of each general partner; and

(g) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.

(2) The execution by a general partner of an application for registration as a foreign limited partnership, the execution of a certificate amending the application pursuant to KRS 362.503 and the execution of a certificate of cancellation pursuant to KRS 362.505 shall constitute an affirmation under the penalties of perjury that the facts stated there are true.

(3) Unless the registered agent signs the application, the foreign limited partnership shall deliver with the application the consent of appointment of the agent for service of process.

Section 55. KRS 362.555 is amended to read as follows:

(1) To become and to continue as a registered limited liability partnership, a partnership shall file with the Secretary of State a statement or a renewal statement, as the case may be, stating the name of the partnership; the address of its principal office~~[, if the partnership's principal office is not located in this state]~~; the number of partners; ***the names of the partners;*** a brief statement of the business in which the partnership engages; and that the partnership registers its status or renews its status, as the case may be, as a registered limited liability partnership.

(2) The statement or renewal statement shall be executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a statement or renewal statement.

(3) The statement or renewal statement shall be accompanied by a fee of two hundred dollars ($200).

(4) The Secretary of State shall register as a registered limited liability partnership, and shall renew the registration of any registered limited liability partnership, any partnership that submits a completed statement or renewal statement with the required fee.

(5) Registration shall be effective for one (1) year after the date a statement is filed, unless voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a withdrawal notice. Registration, whether pursuant to an original statement or a renewal statement, as a registered limited liability partnership shall be renewed if, during the sixty (60) day period preceding the date the statement or renewal statement otherwise would have expired, the partnership files with the Secretary of State a renewal statement. Registration pursuant to a renewal statement shall expire one (1) year after the date the registration would have expired if the last renewal of the registration had not occurred.

(6) The status of a partnership as a registered limited liability partnership shall not be affected by changes made in the information stated in the statement or renewal statement after the filing of the statement or renewal statement.

(7) The Secretary of State may provide forms for use under this section.

Section 56. KRS 365.015 is amended to read as follows:

(1) The real name of ***an individual***~~[a person]~~ shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestic general partnership is that name which includes the real name of ***each***~~[at least one (1)]~~ of the partners; ***the real name of a registered limited liability partnership is the name stated in its statement of registered limited liability partnership filed under KRS Chapter 362;*** the real name of a domestic limited partnership is that name stated in its certificate of limited partnership filed pursuant to KRS Chapter 362; the real name of a domestic business trust is the name set forth in the declaration of trust;~~[and]~~ the real name of a domestic corporation is the name set forth in its articles of incorporation***; and the real name of a domestic limited liability company is the name set forth in its articles of organization***. The real name of a foreign general ***partnership, including a foreign registered limited liability partnership,*** or limited partnership and of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name or the fictitious name adopted for use in this state; ***the real name of a foreign registered limited liability partnership is the name stated in its statement of foreign registered limited liability partnership filed under KRS Chapter 362;***~~[and]~~ the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under KRS 271B.15-060***; and the real name of a foreign limited liability***

company is the name set forth in its articles of organization or the fictitious name adopted for use in this state under KRS 275.410.

(2) (a) No ***individual***~~[person]~~, general ***partnership, including a registered limited liability partnership,***~~[or]~~ limited partnership, business trust***,***~~[or]~~ corporation***, or limited liability company*** shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such ***individual, partnership, limited partnership***~~[person, partnership]~~, business trust***,***~~[or]~~ corporation***, or limited liability company*** has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of ***the individual***~~[person]~~, partnership, ***limited partnership,*** business trust***,***~~[or]~~ corporation***, or limited liability company*** and his or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other~~[assumed name or any corporate name or any foreign limited partnership]~~ name previously filed ***and on record*** with the Secretary of State;

(e) The certificate shall be executed~~[and acknowledged]~~ for ***an individual***~~[a person]~~, by the ***individual***~~[person]~~; for a general partnership, ***including a registered limited liability partnership,*** by ***at least one (1) partner authorized to do so by***~~[all]~~ the partners; for a limited partnership, by a general partner; for a business trust, by the trustees; for a corporation, by any person authorized to act for the corporation***; and for a limited liability company, by a member or manager authorized to act for the limited liability company***.

(3) ***The certificate of assumed name for an individual shall be filed with the county clerk where the person is deemed a resident for the purposes of and under the provisions of KRS Chapter 355. The certificate of assumed name for a general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity is deemed a resident for the purposes of and under the provisions of KRS Chapter 355. If the entity is not deemed a resident of a county in the Commonwealth, the entity shall file only with the Secretary of State***~~[The certificate of assumed name for a person shall be filed with the county clerk of each county wherein business will be conducted or transacted under an assumed name. The certificate of assumed name for a general or limited partnership, business trust or corporation shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy for each county wherein business will be conducted or transacted under such assumed name. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of each county wherein business will be conducted or transacted under the assumed name]~~.

(4) ***An assumed name shall be effective for a term of five (5) years from the date of registration and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.***

(5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party transacting business and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for a general partnership***, including a registered limited liability partnership,*** by ***at least one (1) partner authorized to do so by***~~[all]~~ the partners, for a limited partnership by a general partner, for a business trust by the trustees,~~[and]~~ for a corporation by any person authorized to act for the corporation***, and for a limited liability company by a member or manager authorized to act for the limited liability company***.

(6)~~[(5)]~~ A general partnership shall amend an assumed name to reflect a change in the identity of partners. The amendment shall set forth:

(a) The assumed name and date of original filing;

(b) A statement setting out the changes in identity of the partners; and

(c) Shall be signed by ***at least one (1) partner authorized to do so by***~~[all]~~ the ~~[general]~~partners.

(7)~~[(6)]~~ The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars ($20) for filing each certificate***,***~~[and]~~ amendment***, and renewal certificate***.

Section 57. KRS 275.310 is amended to read as follows:

Upon the winding up of a limited liability company, the assets shall be distributed as follows:

(1) Payment, or adequate provisions for payment, shall be made to creditors, including, to the extent permitted by law,

members who are creditors in satisfaction of liabilities of the limited liability company;

(2) Unless otherwise provided in a written operating agreement, to members or former members in satisfaction of liabilities for distributions under KRS 275.210[~~ and 275.215~~]; and

(3) Unless otherwise provided in a written operating agreement, to members and former members first for the return of their contributions and second in proportion to the members' respective rights to share in distributions from the limited liability company prior to dissolution.

Section 58. KRS 273.3182 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 273.318 or revoked under the provisions of KRS 273.367, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;

(b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of KRS 273.177;

(d) Contain a certificate from the Revenue Cabinet reciting that all taxes owed by the corporation have been paid; and

(e) Be accompanied by the fee for filing a statement or report provided for in KRS 273.368(1)***(i)***[~~(k)~~] and the current fee for filing each delinquent annual report provided for in KRS 273.368.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.

Section 59. The following KRS sections are repealed:

275.215 Effect of event of disassociation which does not cause dissolution.

275.270 Member's legal representative to have rights of assignee if member dies or is declared incompetent.

HB 702, AN ACT relating to marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.100 is amended to read as follows:

Each county clerk shall use the form prescribed by the Department for Libraries and Archives when issuing a marriage license. This form shall provide for the entering of all of the information required in this section, and may also provide for the entering of additional information prescribed by the Department for Libraries and Archives. The form shall consist of:

(1) A marriage license which provides for the entering of:

(a) An authorization statement of the county clerk issuing the license for any person licensed or religious society authorized to perform marriage ceremonies to unite in marriage the persons named;

(b) Vital information for each party, including the full name, date of birth, place of birth, race, condition (single, widowed, or divorced), number of previous marriages, occupation, current residence, relationship to the other party, full names of parents;[~~ and~~]

(c) ***A statement, in bold print, declaring: "The laws of this Commonwealth affirm your right to enter into this marriage and at the same time to live within the marriage under the full protection of the laws of this Commonwealth with regard to violence and abuse. Neither of you is the property of the other. Assault, sexual abuse, and willful injury of a spouse or other family member are violations of the laws of this Commonwealth and are punishable by the Commonwealth."; and***

(d) The date and place the license is issued, and the signature of the county clerk or deputy clerk issuing the license.

(2) A marriage certificate which provides for the entering of:

(a) A statement by the person performing the marriage ceremony or the clerk of the religious society authorized to solemnize the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony or the name of the religious society solemnizing the marriage, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses;

(b) A statement by the person performing the marriage ceremony of his legal qualification under this chapter to perform the ceremony, such statement to include the name of the county or city where his license to perform marriage ceremonies was issued or, in the case of religious societies authorized by KRS 402.050(c) to solemnize marriages, the name of the city or county where the religious society is incorporated. The provisions of this paragraph shall not be construed to require the clerk of a religious society to be present at the marriage so long as the witnesses of the society are present;

(c) A dated signature of the person performing the ceremony; and

(d) A signed statement by the county clerk or a deputy county clerk of the county in which the marriage license was issued that the marriage certificate was recorded. The statement shall indicate the name of the county and the date the marriage certificate was recorded.

(3) A certificate to be delivered by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony to the parties married. This certificate shall provide for the entering of:

(a) A statement by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, or the name of the religious society performing the ceremony, the names of persons married, the date and place of the marriage, the names of two (2) witnesses, and the following information as recorded on the license authorizing the marriage: the date the license was issued, the name of the county clerk under whose authority the license was issued, and the county in which the license was issued; and

(b) A dated signature of the person performing the ceremony or the clerk of the religious society performing the ceremony.

HB 796, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 413.140 is amended to read as follows:

(1) The following actions shall be commenced within one (1) year after the cause of action accrued:

(a) An action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice or servant.

(b) An action for injuries to persons, cattle or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216.

(c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation or breach of promise of marriage.

(d) An action for libel or slander.

(e) An action against a physician, surgeon, dentist or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice.

(f) An action for the escape of a prisoner, arrested or imprisoned on civil process.

(g) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either.

(h) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession.

(i) An action for the recovery of damages or the value of stolen property, against the thief or any accessory.

(2) ***In respect to the action referred to in paragraph (a) of subsection (1) of this section, the cause of action against a third party defendant shall be deemed to accrue at the time of joinder as a third party defendant.***

(3) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five (5) years from the date on which the alleged negligent act or omission is said to have occurred.

(4)[~~(3)~~] In respect to the action referred to in paragraph (g) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.

(5)[~~(4)~~] In respect to the action referred to in paragraph (h) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.

(6)[~~(5)~~] In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.

The Committee Substitute to **HB 796** is as follows:

AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 413.140 is amended to read as follows:

(1) The following actions shall be commenced within one (1) year after the cause of action accrued:

(a) An action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice or servant.

(b) An action for injuries to persons, cattle or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216.

(c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation or breach of promise of marriage.

(d) An action for libel or slander.

(e) An action against a physician, surgeon, dentist or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice.

(f) An action for the escape of a prisoner, arrested or imprisoned on civil process.

(g) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either.

(h) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession.

(i) An action for the recovery of damages or the value of stolen property, against the thief or any accessory.

(2) ***In respect to the actions referred to in subsection (1) of this section, a plaintiff's cause of action against a third party defendant shall be deemed to accrue at the time of joinder as a third party defendant.***

(3) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five (5) years from the date on which the alleged negligent act or omission is said to have occurred.

(4)[~~(3)~~] In respect to the action referred to in paragraph (g) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.

(5)[~~(4)~~] In respect to the action referred to in paragraph (h) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.

(6)[~~(5)~~] In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.

HB 880, AN ACT relating to escheats.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 393 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, refunds of workers' compensation special fund assessments levied in accordance with KRS 342.122 shall be deemed "unclaimed refunds" if held by an insurance carrier and owed to an insured employer.

(2) For purposes of this section, "unclaimed refunds" means all unremitted workers' compensation special fund assessments collected by a carrier, as defined in KRS 342.0011(6), in excess of the applicable special fund assessment rate, owing and unpaid to an insured employer after the carrier has made a reasonable attempt to return the unclaimed refunds to the insured employer.

(3) Unclaimed refunds shall be remitted by the insurance carrier to the Kentucky Workers' Compensation Funding Commission, created under KRS 342.1223, and shall be credited to the benefit reserve fund, created under KRS 342.1229, within the Kentucky Workers' Compensation Funding Commission. Unclaimed refunds remitted to the Kentucky Workers' Compensation Funding Commission and held by that commission for more than two (2) years shall become the property of the benefit reserve fund.

(4) The unclaimed refunds remitted as required in this section to the Kentucky Workers' Compensation Funding Commission and held for more than two (2) years shall not thereafter be available to any party who may have a claim to the remitted unclaimed refunds and any claims for the remitted sums shall be forever barred.

(5) The provisions of this section shall apply to any refunds or unclaimed refunds owing and held by a carrier on or after the effective date of this Act.

HB 891, AN ACT relating to probation and parole.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Department of Corrections and all persons supervised pursuant to KRS 439.560 shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

(a) For a felony, not less than ten dollars ($10) per month while on active supervision nor more than two thousand five hundred dollars ($2,500).

(b) For a misdemeanor, not less than ten dollars ($10) per month while on active supervision nor more than five hundred dollars ($500), except as provided in subsection (13) of this section.

(3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In counties containing a city of the first class or an urban-county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release program, if it finds that any of the factors in subsection (6) of this section exist.

(6) The releasing authority shall not waive any fee unless the commissioner of the Department of Corrections or his designee petitions the releasing authority in written form for the waiver. The Department of Corrections shall not petition unless:

(a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In such case, the fee may be postponed until completion of education but shall be paid thereafter.

(b) The offender has an employment disability, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(7) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.

(9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided in this section. Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the Department of Corrections petitions the releasing authority to modify the fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section.

(12) The Department of Corrections and the Division of Probation and Parole shall, for each person released under its supervision, keep an account of all payments made and report delinquencies to the releasing authority.

(13) In ***all*** counties~~[containing a city of the first class or an urban-county form of government]~~, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release program of the county~~[containing a city of the first class or urban-county government]~~ shall pay a fee to offset the

costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanant defendant placed under the supervision of an adult misdemeanant probation and work release program of a county[~~ containing a city of the first class or an urban-county government~~] shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500). All sums paid by the defendant under this subsection shall be paid into the general fund of the county[~~ containing a city of the first class or urban-county government~~] in lieu of the payment specified in subsection (8) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the county[~~ containing a city of the first class or urban-county~~] involved. The adult misdemeanant probation and work release program of the county[~~ containing a city of the first class or urban-county government~~] shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk, and report delinquencies to the court.

SB 76, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere;

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and

(l) If the defendant's record indicates a controlled substance or alcohol problem, submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, said fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. For good cause shown, the testing fee may be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Human Resources, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be

apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the State Treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by KRS 431.570, relative to the probationer.

(5) ***In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of probation or conditional discharge of a sentence of detention or imprisonment for a drug or alcohol related offense, to make one (1) payment to Drug Abuse Resistance Education (D.A.R.E.) in an amount not to exceed the amount of any fine which also could have been imposed for the offense.***

(6) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(7)[~~(6)~~] When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

The Committee on Natural Resources and Environment reported **HB 717**, with Committee Substitute attached thereto, **HB 765**, **HJR 121**, **SB 18**, **SB 42**, **SB 59**, and **SB 253** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 717, AN ACT relating to the Department of Fish and Wildlife Resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

A person whose privilege to hunt or fish has been suspended or revoked by any jurisdiction within the United States or Canada shall not purchase or possess a license to hunt or fish nor shall that person perform any act permitted by the license in Kentucky during the period of suspension or revocation.

Section 2. KRS 150.160 is amended to read as follows:

Sixty percent (60%) of a[~~Any~~] fine imposed for the violation of this chapter ***or Chapter 235*** shall, when collected, be paid into the game and fish fund.

Section 3. KRS 150.175 is amended to read as follows:

(1) The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under the licenses and tags, subject to the other provisions of this chapter and subject to administrative regulations promulgated under this chapter, shall be as follows:

(a) Statewide resident sport fishing license, which authorizes the holder to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap, or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations in this chapter and additional limitations that the department may from time to time prescribe. This license shall not authorize the holder to sell fish;

(b) A short-term sport fishing license, which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed administrative regulations. This license shall not authorize the holder to sell fish;

(c) A resident commercial fishing license and a nonresident commercial fishing license, which authorize a holder to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by administrative regulation. The license shall also authorize the holder to sell rough fishes, other than those protected by administrative regulation;

(d) A commercial fishing gear tag, which shall be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use, including commercial seines, gill nets, or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license;

(e) Live fish and bait dealer's licenses, resident and nonresident, which authorize the holder to sell bait and live fish as may be prescribed by administrative regulation;

(f) Musseling licenses, resident and nonresident, which authorize the holder to take mussels for commercial purposes as may be prescribed by administrative regulation;

(g) A statewide resident hunting license, which authorizes the holder to take or pursue wild animals, wild birds, frogs, and turtles with gun, bow and arrow, dog, or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and administrative regulations of the department;

(h) A junior statewide hunting license, which may be issued to a person before he has reached his sixteenth birthday, and which authorizes the holder to exercise all the privileges authorized by a statewide hunting license. No junior hunting license shall be issued without the written permission of parent, guardian, or person having custody of the person under sixteen (16) years of age;

(i) Trapping licenses, resident and nonresident, which authorize the holder to take wild animals by trapping upon his own lands or upon the lands of another person, if the holder of the license shall have first obtained a written consent as provided in KRS 150.092;

(j) Taxidermist licenses, commercial and noncommercial, which authorize the holder to engage in the act of preparing, stuffing, and mounting the skins of wildlife;

(k) A commercial guide's license, which authorizes the holder to guide hunting and fishing parties according to the provisions of the laws and administrative regulations of the department;

(l) Fur buyer's licenses, resident and nonresident, which authorize the holder to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for the license shall state the number of premises to be used and shall display at each a copy of the license as furnished by the department, except that the commissioner may limit the number of copies furnished and may revoke the license for violation;

(m) A fur processor's license, which may be issued only to a resident, a partnership, firm, or corporation of this state and which authorizes the holder to buy raw furs when in legal possession for processing, manufacture, or retention in cold storage or for resale;

(n) A nonresident sport fishing license, which authorizes the holder to perform any act authorized by a resident statewide sport fishing license. This license shall not authorize the holder to sell fish;

(o) A nonresident annual hunting license, which authorizes the holder to perform any act authorized by a resident statewide hunting license;

(p) Shoot-to-retrieve field trial permits, four (4) day and single day, which authorize a permit holder to conduct a shoot-to-retrieve field trial on private or government-owned lands. With a four (4) day permit, all participants, whether residents or nonresidents, shall not be required to possess any other license to participate in the permitted field trial, and the permit shall expire four (4) days after the date on which the field trial began. With the single day permit, the permit is valid for one (1) day and all participants shall have a valid resident or nonresident annual Kentucky hunting license. A permit is not required to conduct a shoot-to-retrieve field trial on a licensed shooting preserve; however, all participants that take or attempt to take game shall have in their possession a resident or nonresident annual Kentucky hunting license or a nonresident shooting preserve license;

(q) A special license to nonresidents for the purpose of hunting on licensed hunting preserves. This license shall be good only for the preserve for which it was issued and shall remain in effect only for one (1) year. These licenses shall be issued in ink by the preserve manager, and he shall ensure that each hunter is properly licensed before going into the field. When the hunter owns either a nonresident or resident statewide hunting license for the current year, the special license shall not be required. The commissioner, with the approval of the commission, may establish and regulate hunting preserves, either private or commercial;

(r) ***Species-specific permits and species-specific junior permits***[~~A big game permit and a junior big game permit~~], which, in combination with a valid ***annual***[~~statewide~~] hunting license or a valid junior[~~ statewide~~] hunting license, authorize the holder to take or pursue ***any such species designated by the department by administrative regulation***[~~deer, bear, or wild turkey,~~] in any designated open area of this state, during the open season and according to the provisions of the laws and administrative regulations governing the hunting ***of those species***;

(s) A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;

(t) A trout permit, which in combination with a valid statewide fishing license, authorizes the holder to take trout by angling or as may be prescribed by administrative regulation;

(u) A commercial waterfowl permit, which authorizes the holder to establish and operate a commercial waterfowl hunting preserve;

(v) A short-term hunting license, which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide hunting license, except for hunting big game species for which an annual nonresident hunting license shall be required, and according to the provisions of the laws and administrative regulations of the department;

(w) A joint statewide resident sport fishing license issued to a husband and wife which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be ten percent (10%) less than the license fee set by the commission for two (2) statewide resident sport fishing licenses;

(x) A Kentucky waterfowl permit, which in combination with a valid statewide hunting license and compliance with applicable federal law, authorizes the holder to take or pursue waterfowl and migratory shore or upland game birds;

(y) A pay lake license which authorizes the holder to operate privately owned impounded waters for fishing purposes for which a fee is charged; and

(z) A migratory game bird permit, which, in combination with a statewide hunting license and compliance with applicable federal law, allows the holder to take migratory shore or upland game birds.

Section 4. KRS 150.225 is amended to read as follows:

(1) The Department of Fish and Wildlife Resources shall, by its commission ***and through administrative regulation promulgated in accordance with KRS Chapter 13A***, prescribe reasonable[~~ license~~] fees ***for the licenses, permits, and registrations authorized by KRS Chapters 150 and 235***[~~relating to hunting, fishing, and trapping. Provided, however, the department shall set no private license fee at less than one dollar ($1) nor more than two hundred dollars ($200), and no commercial license fee at less than two dollars ($2) nor more than fifteen hundred dollars ($1,500)~~].

(2) A person who collects, receives, possesses, or manages fees for the department's licenses and permits acts in a fiduciary capacity for the Commonwealth, and all moneys collected from the sale of licenses and permits, except agent fees for selling licenses or permits, shall be held in trust for the department.

Section 5. KRS 150.390 is amended to read as follows:

(1) No person shall possess, take, pursue, or attempt to take or pursue or otherwise molest any deer, wild turkey***,*** or bear in any manner contrary to any provisions of this chapter or its ***administrative*** regulations.

(2) No person shall use a dog to chase or molest deer in any manner, at any time, or at any place. Any conservation officer, peace officer, sheriff***,*** or constable may take necessary steps to stop, prevent, or bring under control any dog, or dogs, found chasing or molesting deer at any time.

(3) A person who takes wildlife shall make every reasonable effort to retrieve the downed wildlife, add it to his daily bag, and tag it if tagging is required by this chapter or the administrative regulations promulgated thereunder.

Section 6. KRS 150.645 is amended to read as follows:

An owner, lessee or occupant of premises who gives permission to another person to hunt, fish, trap, camp or hike upon ***the***[~~such~~] premises shall owe no duty to keep the premises safe for entry or use by ***the***[~~such~~] person or to give warning of any hazardous conditions on ***the***[~~such~~] premises, and ***the***[~~such~~] owner, lessee***,*** or occupant, by giving ***his***[~~such~~] permission, does not thereby extend any assurance that the premises are safe for such purpose, or constitute the person to whom permission is granted an invitee to whom a duty of care is owed. The owner, lessee***,*** or occupant giving permission for any of the purposes stated above shall not be liable for any injury to any person or property caused by the negligent acts of any person to whom permission is granted. This section shall not limit the liability which would otherwise exist for willful and malicious failure to guard, or to warn against, a dangerous condition, use, structure, or activity; or for injury suffered in any case where permission to hunt, fish, trap, camp, or hike was granted for a consideration other than the consideration, if any, ***as set forth in subsection (1)(d) of Section 15 of this Act,*** paid to said owner, lessee, or occupant by the state. The word "premises" as used in this section includes lands, private ways, and any buildings and structures thereon. Nothing in this section limits in any way any liability which otherwise exists.

Section 7. KRS 150.990 is amended to read as follows:

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any ***administrative*** regulation ***promulgated***[~~adopted~~] by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any ***administrative*** regulations ***promulgated***[~~adopted~~] by the commission thereunder may, in addition to the penalties provided in[~~ subsection (3), (4), (5), (6), (7), and (8) of~~] this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license, and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year ***and up to three (3) additional license years***. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any ***administrative*** regulation which has been or may be ***promulgated***[~~adopted~~] by the commission under any provisions of this chapter[~~ or which is adopted to supplement, explain, carry out, or limit any provision of this chapter,~~] shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the ***administrative*** regulation is ***promulgated***[~~adopted or which the regulation supplements, explains, carries out, or limits~~].

(3) Any person who violates any of the provisions of[~~ KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.603, subsection (1) of KRS 150.235, subsection (2) of KRS 150.330 or 150.470, or any of the provisions of~~] this chapter or any ***administrative*** regulation ***promulgated***[~~adopted~~] by the commission for which no definite fine or imprisonment is fixed shall be***:***

(a) Fined not less than ***fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned for not more than three (3) months, or both. If the violation involves the taking of wildlife, the person shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), imprisoned for up to six (6) months, or both; and***

(b) Liable to the department in an amount not to exceed the greater of the replacement cost of wildlife taken or double any monetary gain realized from the illegal activity[~~twenty five dollars ($25) nor more than two hundred dollars ($200)~~].

(4)[~~ Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.445, 150.485, 150.600, 150.630, 150.660, subsection (1) of KRS 150.450, 150.470, the provisions of KRS 150.195(5) to (8), or subsection (3) of KRS 150.660 shall be fined not less than twenty five dollars ($25) nor more than two hundred dollars ($200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700.~~

~~(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).~~

~~(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, subsection (1) of KRS 150.330, or subsections (2), (3), or (4) of KRS 150.235 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months or both.~~

~~(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed.~~

~~(8)~~] Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall***:***[~~,~~]

(a) For the first offense***, be subject to the penalties in subsection (3) of this section;***

(b) For a[~~ be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1000); and shall for a~~] second offense, be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1500)***, or imprisoned for not more than six (6) months, or both, plus the additional penalties specified in subsection (3)(b) of this section***;[~~ and~~]

(c) For ***a third or***[~~any~~] subsequent offense ***of a violation of KRS 150.180 or 150.525***, be fined two thousand dollars ($2000)***, or imprisoned for not more than six (6) months, or both, plus the additional penalties stipulated in subsection (3)(b) of this section; and***

(d) For a third or subsequent offense[~~,~~

~~(9)~~ ~~Any person who violates the provisions~~] of KRS 150.520 or administrative regulations issued thereunder[~~ shall~~], if the violation relates to methods of taking mussels,[~~ for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense~~] ***be fined two thousand dollars ($2,000) or*** be imprisoned in the county jail for no more than one (1) year***, or both, plus the additional penalties specified in subsection (3)(b) of this section***.[~~ The penalties for violation of subsection (9) shall be in addition to the penalties for violation of subsection (8).~~

~~(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).~~

~~(11) Any person who violates any of the provisions of KRS 150.390, or subsection (4) of KRS 150.092 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages.~~]

(5)[~~(12)~~] Any person who violates any of the provisions of KRS 150.090***(6)*** other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter***, KRS Chapter 235,*** or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(6)[~~(13)~~] Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter***, KRS Chapter 235,*** or the administrative regulations issued thereunder shall be subject to the penalties specified for ***the***[~~such~~] offense under KRS Chapter 507 or 508, as appropriate.

(7)[~~(14)~~] A person shall be guilty of a Class B misdemeanor upon the first ***conviction for a*** violation of KRS 150.710. A subsequent ***conviction***[~~violation~~] shall be a Class A misdemeanor.

(8)[~~(15)~~] Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the[~~ first offense be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300); for the~~] second offense, be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars ($1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions.

SECTION 8. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

Sixty percent (60%) of a fine imposed for the violation of this chapter or KRS Chapter 150 shall, when collected, be paid into the game and fish fund.

Section 9. KRS 235.080 is amended to read as follows:

(1) The annual registration fee for motorboats shall be ***set by the department by administrative regulation.***[~~based upon the following:~~

~~With electric motors as the sole source of propulsion~~	~~$5.00~~
~~1 foot through 15 feet 11 inches~~	~~10.00~~
~~16 feet through 25 feet 11 inches~~	~~14.00~~
~~26 feet through 39 feet 11 inches~~	~~20.00~~
~~40 feet and over~~	~~24.00~~
~~All inboards and inboard/outboards~~	~~24.00~~]

Every application for registration or renewal of registration shall be accompanied by the registration fee[~~ above set out~~] in addition to a one dollar ($1) fee which shall be deposited in a trust and agency account for use by the Transportation Cabinet in defraying the cost of implementing and operating the boat titling and registration program.

(2) The annual registration fee for motorboats for hire from a livery shall be the registration fees set forth in subsection (1) of this section. Owners of a livery shall apply for licenses or certificates in the manner provided in this chapter, but the Transportation Cabinet may promulgate special administrative regulations relating to their certification and registration.

Section 10. KRS 235.210 is amended to read as follows:

(1) A motorboat shall not be required to be numbered under this chapter if it is:

(a) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state;[~~ provided, that such boat shall not have been within this state for a period in excess of sixty (60) consecutive days;~~]

(b) A motorboat from a country other than the United States temporarily using the waters of this state;

(c) A motorboat whose owner is the United States, a state, or a subdivision thereof, except when ***the***[~~such~~] boat is leased to the public for compensation it ***shall***[~~must~~] be registered according to KRS 235.080(2);

(d) A ship's lifeboat used or intended to be used as such;

(e) A motorboat belonging to a class of boats which has been exempted from numbering by the department after ***the department***[~~said agency~~] has found that the numbering of motorboats of ***that***[~~such~~] class will not materially aid in their identification; and, if an agency of the federal government has a numbering system applicable to the class of motorboats to which the motorboat in question belongs, after the department has further found that the motorboat would also be exempt from numbering if it were subject to the federal law.

(2) Boats exempt from registration may be required by the department to apply for an official identification number to be displayed in accordance with KRS 235.110.

(3) If a boat owned by a resident of another state with valid registration in that state, or a boat registered with the federal government has remained in Kentucky for more than sixty (60) consecutive days, it shall display a valid annual Kentucky nonresident boat decal. This decal shall be displayed on a boat whose owner enters into an agreement, or a series of agreements, to rent a slip, mooring, or space in a boat storage facility in Kentucky for more than sixty (60) consecutive days.

(4) The department shall by administrative regulation establish the design, issuing procedures, and price of the nonresident boat decal.

Section 11. KRS 235.220 is amended to read as follows:

(1) Every manufacturer of, or dealer in motorboats in this state shall register with the cabinet at Frankfort, Kentucky, and pay an annual registration fee ***as set by the department by administrative regulation***[~~of twenty-five dollars ($25) to the department~~]. Upon receipt of this fee, the department shall issue to the manufacturer or dealer a certificate of number and a plate bearing the number assigned, which plate shall be so designed that it can be transferred from boat to boat. Every manufacturer or dealer registered under this section shall be furnished additional dealer certificates of number and plates upon the payment of two dollars ($2) for each additional certificate of number desired. A motorboat bearing dealer's plates and carrying a dealer's certificate of number may be used only by a member of the firm registered or by a bona fide salesman or employee of the firm for any purpose reasonably connected with the sale or demonstration for sale and delivery of the dealer's motorboat or by any manufacturer or dealer, licensed as provided above, in transporting any motorboat over the waters of this state to his place of retail business for the manufacturer or wholesale dealer in motorboats and for no other purpose.

(2) Every motorboat dealer or manufacturer who acquires a used motorboat for cash, trade-in, or in any other manner, shall within fifteen (15) days from date of acquisition have the registration assigned to himself. The dealer shall execute his application for assignment upon documents designated by the cabinet to the county clerk of the county in which he maintains his principal place of business and pay the transfer fee. The clerk shall enter the assignment upon the automated system.

(3) The dealer shall retain the properly assigned certificate of title received from his transferor, and may make any reassignments thereon until the forms for dealer assignment on the certificate of title are exhausted. The cabinet may, if it deems warranted, provide a special document to allow for additional dealer assignments without requiring system generated documents.

(4) If the dealer assigns the motorboat to a purchaser for use, he shall deliver the properly assigned certificate of title to the purchaser, who shall make application for registration and a certificate of title thereon, pursuant to KRS 235.050.

(5) The cabinet shall insure that the automated system is capable of accepting instructions from the county clerk that a certificate of title shall not be produced under a dealer registration situation.

(6) The license of any dealer or manufacturer may be suspended or revoked by the cabinet for a violation of any section of this statute. Such persons shall be afforded a full opportunity to defend themselves against any charges at a hearing set by this department.

Section 12. KRS 235.330 is amended to read as follows:

(1) All moneys collected under the provisions of ***Section 9 of this Act, KRS 235.130, and Section 11 of this Act***[~~this chapter~~], except that specified for distribution to the county clerks or Transportation Cabinet, shall be paid into the State Treasury in the manner prescribed by law, and credited to a trust and agency account to be used by the Division of Water Patrol.

(2) Appropriations for the operation of the Division of Water Patrol may also be made from the general expenditure fund.

Section 13. KRS 235.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter shall be fined not less than ***fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned for not more than three (3) months, or both***[~~fifteen dollars ($15) nor~~

~~more than one hundred dollars ($100)~~].

(2) Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than ***fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned for not more than three (3) months, or both***[~~fifteen dollars ($15) nor more than one hundred dollars ($100)~~].

(3) Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with any officer in the discharge of his duties, other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 150, or the administrative regulations issued under either of these chapters, shall be guilty of a Class A misdemeanor.

(4) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 150, or the administrative regulations issued under either of these chapters shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

Section 14. KRS 30A.190 is amended to read as follows:

All fees, fines, forfeitures, and costs in any District Court or Circuit Court case shall be collected and accounted for by the Circuit Court clerk and paid into the State Treasury, except that sixty percent (60%) of any fines imposed for the violation of KRS Chapter 150 ***or KRS Chapter 235*** shall when collected be paid into the fish and game fund.

Section 15. KRS 411.190 is amended to read as follows:

(1) As used in this section:

(a) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(b) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the premises.

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

(d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land ***but does not include fees for general use permits issued by a government agency for access to public lands if the permits are valid for a period of not less than thirty (30) days***.

(2) The purpose of this section is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(3) Except as specifically recognized by or provided in subsection (6) ***of this section***, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on ***the***[~~such~~] premises to persons entering for such purposes.

(4) Except as specifically recognized by or provided in subsection (6) ***of this section***, an owner of land who either directly or indirectly invites or permits without charge any person to use ***the***[~~such~~] property for recreation purposes does not thereby:

(a) Extend any assurance that the premises are safe for any purpose.

(b) Confer upon ***the***[~~such~~] person the legal status of an invitee or licensee to whom a duty of care is owed.

(c) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of ***those***[~~such~~] persons.

(5) Unless otherwise agreed in writing, the provisions of subsections (3) and (4) ***of this section*** shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(6) Nothing in this section limits in any way any liability which otherwise exists:

(a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

(b) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for ***the***[~~such~~] lease shall not be deemed a charge within the meaning of this section.

(7) Nothing in this section shall be construed to:

(a) Create a duty of care or ground of liability for injury to persons or property.

(b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of ***the***[~~such~~] land and in his activities thereon, or from the legal consequences of failure to employ such care.

Section 16. KRS 150.460 is amended to read as follows:

(1) No person, firm or corporation, whether acting in a private or public capacity, shall place or cause to be placed in any

public waters any substance that might injure, interfere with, or cause the waters to be unfit for the support of wildlife. When any employee of a person, firm or corporation, in the course of his employment, places or causes to be placed any such substance in any public waters, his act shall be prima facie evidence of the guilt of both the employee and the employer, and either one (1) or both may be punished as provided in subsection ***(3)***[~~(7)~~] of KRS 150.990. Each day that this section is violated shall constitute a separate offense. This section does not apply to employees or agents of the department acting in an official capacity.

(2) No person shall use, or attempt to use any electrical device, fish-finding devices excepted, of any type, such as telephone, or electrical leads from a magneto, or battery, or motor, or any other type of electrical equipment, in any stream or body of water. This does not prevent the authorized employees or agents of the department from using this or any devices in research or investigational work.

(3) No person, except employees or agents of the department, shall willfully place or attempt to place in any of the public waters of the state any substance which has a poisonous or intoxicating effect upon wildlife.

(4) No person shall kill, injure, shock, or stun or attempt to kill, injure, shock, or stun any fishes by any explosive agent, firearm, or other device. This provision shall not apply to employees or agents of the department acting in an official capacity.

The Committee Substitute to **HB 717** is as follows:

AN ACT relating to the Department of Fish and Wildlife Resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

A person whose privilege to hunt or fish has been suspended or revoked by any jurisdiction within the United States or Canada shall not purchase or possess a license to hunt or fish nor shall that person perform any act permitted by the license in Kentucky during the period of suspension or revocation.

Section 2. KRS 150.160 is amended to read as follows:

Sixty percent (60%) of a[~~Any~~] fine imposed for the violation of this chapter ***or Chapter 235*** shall, when collected, be paid into the game and fish fund.

Section 3. KRS 150.225 is amended to read as follows:

(1) The Department of Fish and Wildlife Resources shall, by its commission ***and through administrative regulation promulgated in accordance with KRS Chapter 13A***, prescribe reasonable[~~ license~~] fees ***for the licenses, permits, and registrations authorized by KRS Chapters 150 and 235***[~~relating to hunting, fishing, and trapping. Provided, however, the department shall set no private license fee at less than one dollar ($1) nor more than two hundred dollars ($200), and no commercial license fee at less than two dollars ($2) nor more than fifteen hundred dollars ($1,500)~~].

(2) A person who collects, receives, possesses, or manages fees for the department's licenses and permits acts in a fiduciary capacity for the Commonwealth, and all moneys collected from the sale of licenses and permits, except agent fees for selling licenses or permits, shall be held in trust for the department.

Section 4. KRS 150.645 is amended to read as follows:

An owner, lessee or occupant of premises who gives permission to another person to hunt, fish, trap, camp or hike upon ***the***[~~such~~] premises shall owe no duty to keep the premises safe for entry or use by ***the***[~~such~~] person or to give warning of any hazardous conditions on ***the***[~~such~~] premises, and ***the***[~~such~~] owner, lessee***,*** or occupant, by giving ***his***[~~such~~] permission, does not thereby extend any assurance that the premises are safe for such purpose, or constitute the person to whom permission is granted an invitee to whom a duty of care is owed. The owner, lessee***,*** or occupant giving permission for any of the purposes stated above shall not be liable for any injury to any person or property caused by the negligent acts of any person to whom permission is granted. This section shall not limit the liability which would otherwise exist for willful and malicious failure to guard, or to warn against, a dangerous condition, use, structure***,*** or activity; or for injury suffered in any case where permission to hunt, fish, trap, camp***,*** or hike was granted for a consideration other than the consideration, if any, ***as set forth in subsection (1)(d) of Section 12 of this Act,*** paid to said owner, lessee***,*** or occupant by the state. The word "premises" as used in this section includes lands, private ways***,*** and any buildings and structures thereon. Nothing in this section limits in any way any liability which otherwise exists.

Section 5. KRS 150.990 is amended to read as follows:

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any ***administrative*** regulation ***promulgated***[~~adopted~~] by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any ***administrative*** regulations ***promulgated***[~~adopted~~] by the commission thereunder may, in addition to the penalties provided in subsection (3), (4), (5), (6), (7), and (8) of this

section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license, and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any ***administrative*** regulation which has been or may be ***promulgated***[~~adopted~~] by the commission under any provisions of this chapter[~~, or which is adopted to supplement, explain, carry out, or limit any provision of this chapter,~~] shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the ***administrative*** regulation is ***promulgated***[~~adopted or which the regulation supplements, explains, carries out, or limits~~].

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.603, subsection (1) of KRS 150.235, subsection (2) of KRS 150.330 or 150.470, or any of the provisions of this chapter or any ***administrative*** regulation ***promulgated***[~~adopted~~] by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.445, 150.485, 150.600, 150.630, 150.660, subsection (1) of KRS 150.450, 150.470, the provisions of KRS 150.195(5) to (8), or subsection (3) of KRS 150.660 shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700.

(5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, subsection (1) of KRS 150.330, or subsections (2), (3), or (4) of KRS 150.235 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than six (6) months or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed.

(8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall, for the first offense be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1000); and shall for a second offense be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1500); and for any subsequent offense, be fined two thousand dollars ($2000).

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of subsection (9) shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates any of the provisions of KRS 150.390, or subsection (4) of KRS 150.092 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (4) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages.

(12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter***, KRS Chapter 235,*** or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter***, KRS Chapter 235,*** or the administrative regulations issued thereunder shall be subject to the penalties specified for ***the***[~~such~~] offense under KRS Chapter 507 or 508, as appropriate.

(14) A person shall be guilty of a Class B misdemeanor upon the first ***conviction for a*** violation of KRS 150.710. A subsequent ***conviction***[~~violation~~] shall be a Class A misdemeanor.

(15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300); for the second offense, be fined not less than three hundred

dollars ($300) nor more than one thousand dollars ($1,000); and for subsequent offenses, shall forfeit the license, or if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars ($1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions.

SECTION 6. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

Sixty percent (60%) of a fine imposed for the violation of this chapter or KRS Chapter 150 shall, when collected, be paid into the game and fish fund.

Section 7. KRS 235.080 is amended to read as follows:

(1) The annual registration fee for motorboats shall be ***set by the department by administrative regulation.***[~~based upon the following:~~

~~With electric motors as the sole source of propulsion~~	~~$5.00~~
~~1 foot through 15 feet 11 inches~~	~~10.00~~
~~16 feet through 25 feet 11 inches~~	~~14.00~~
~~26 feet through 39 feet 11 inches~~	~~20.00~~
~~40 feet and over~~	~~24.00~~
~~All inboards and inboard/outboards~~	~~24.00~~]

Every application for registration or renewal of registration shall be accompanied by the registration fee[~~ above set out~~] in addition to a one dollar ($1) fee which shall be deposited in a trust and agency account for use by the Transportation Cabinet in defraying the cost of implementing and operating the boat titling and registration program.

(2) The annual registration fee for motorboats for hire from a livery shall be the registration fees set forth in subsection (1) of this section. Owners of a livery shall apply for licenses or certificates in the manner provided in this chapter, but the Transportation Cabinet may promulgate special administrative regulations relating to their certification and registration.

Section 8. KRS 235.220 is amended to read as follows:

(1) Every manufacturer of, or dealer in motorboats in this state shall register with the cabinet at Frankfort, Kentucky, and pay an annual registration fee ***as set by the department by administrative regulation***[~~of twenty-five dollars ($25) to the department~~]. Upon receipt of this fee, the department shall issue to the manufacturer or dealer a certificate of number and a plate bearing the number assigned, which plate shall be so designed that it can be transferred from boat to boat. Every manufacturer or dealer registered under this section shall be furnished additional dealer certificates of number and plates upon the payment of two dollars ($2) for each additional certificate of number desired. A motorboat bearing dealer's plates and carrying a dealer's certificate of number may be used only by a member of the firm registered or by a bona fide salesman or employee of the firm for any purpose reasonably connected with the sale or demonstration for sale and delivery of the dealer's motorboat or by any manufacturer or dealer, licensed as provided above, in transporting any motorboat over the waters of this state to his place of retail business for the manufacturer or wholesale dealer in motorboats and for no other purpose.

(2) Every motorboat dealer or manufacturer who acquires a used motorboat for cash, trade-in, or in any other manner, shall within fifteen (15) days from date of acquisition have the registration assigned to himself. The dealer shall execute his application for assignment upon documents designated by the cabinet to the county clerk of the county in which he maintains his principal place of business and pay the transfer fee. The clerk shall enter the assignment upon the automated system.

(3) The dealer shall retain the properly assigned certificate of title received from his transferor, and may make any reassignments thereon until the forms for dealer assignment on the certificate of title are exhausted. The cabinet may, if it deems warranted, provide a special document to allow for additional dealer assignments without requiring system generated documents.

(4) If the dealer assigns the motorboat to a purchaser for use, he shall deliver the properly assigned certificate of title to the purchaser, who shall make application for registration and a certificate of title thereon, pursuant to KRS 235.050.

(5) The cabinet shall insure that the automated system is capable of accepting instructions from the county clerk that a certificate of title shall not be produced under a dealer registration situation.

(6) The license of any dealer or manufacturer may be suspended or revoked by the cabinet for a violation of any section of this statute. Such persons shall be afforded a full opportunity to defend themselves against any charges at a hearing set by this department.

Section 9. KRS 235.330 is amended to read as follows:

(1) All moneys collected under the provisions of ***Section 7 of this Act, KRS 235.130, and Section 8 of this Act***[~~this chapter~~], except that specified for distribution to the county clerks or Transportation Cabinet, shall be paid into the State

Treasury in the manner prescribed by law, and credited to a trust and agency account to be used by the Division of Water Patrol.

(2) Appropriations for the operation of the Division of Water Patrol may also be made from the general expenditure fund.

Section 10. KRS 235.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100).

(2) Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100).

(3) Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with any officer in the discharge of his duties, other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 150, or the administrative regulations issued under either of these chapters, shall be guilty of a Class A misdemeanor.

(4) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 150, or the administrative regulations issued under either of these chapters shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

Section 11. KRS 30A.190 is amended to read as follows:

All fees, fines, forfeitures, and costs in any District Court or Circuit Court case shall be collected and accounted for by the Circuit Court clerk and paid into the State Treasury, except that sixty percent (60%) of any fines imposed for the violation of KRS Chapter 150 ***or KRS Chapter 235*** shall when collected be paid into the fish and game fund.

Section 12. KRS 411.190 is amended to read as follows:

(1) As used in this section:

(a) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(b) "Owner" means the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the premises.

(c) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, nature study, water skiing, winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites.

(d) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land ***but does not include fees for general use permits issued by a government agency for access to public lands if the permits are valid for a period of not less than thirty (30) days***.

(2) The purpose of this section is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

(3) Except as specifically recognized by or provided in subsection (6) ***of this section***, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes, or to give any warning of a dangerous condition, use, structure, or activity on ***the***[~~such~~] premises to persons entering for such purposes.

(4) Except as specifically recognized by or provided in subsection (6) ***of this section***, an owner of land who either directly or indirectly invites or permits without charge any person to use ***the***[~~such~~] property for recreation purposes does not thereby:

(a) Extend any assurance that the premises are safe for any purpose.

(b) Confer upon ***the***[~~such~~] person the legal status of an invitee or licensee to whom a duty of care is owed.

(c) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of ***those***[~~such~~] persons.

(5) Unless otherwise agreed in writing, the provisions of subsections (3) and (4) ***of this section*** shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision thereof for recreational purposes.

(6) Nothing in this section limits in any way any liability which otherwise exists:

(a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

(b) For injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for ***the***[~~such~~] lease shall not be deemed a charge within the meaning of this section.

(7) Nothing in this section shall be construed to:

(a) Create a duty of care or ground of liability for injury to persons or property.

(b) Relieve any person using the land of another for recreational purposes from any obligation which he may have in the absence of this section to exercise care in his use of ***the***[~~such~~] land and in his activities thereon, or from the legal consequences of failure to employ such care.

HB 765, AN ACT relating to oil and gas recovery enhancement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 137 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "recovered inactive well" means a well that has been inactive for a consecutive two (2) year period or a well that has been plugged and abandoned, as determined by the Department of Mines and Minerals, and that resumes producing crude petroleum oil.

(2) Every taxpayer engaged in the production of crude petroleum oil within this Commonwealth shall be allowed a credit against the tax imposed under KRS 137.120 equal to four and one-half percent (4.5%) of the market value of crude petroleum oil that is produced from a recovered inactive well.

SECTION 2. A NEW SECTION OF KRS CHAPTER 143A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "recovered inactive well" means a well that has been inactive for a consecutive two (2) year period or a well that has been plugged and abandoned, as determined by the Department of Mines and Minerals, and that resumes producing natural gas.

(2) Every taxpayer engaged in severing or processing natural gas within this Commonwealth shall be allowed a credit against the tax imposed under KRS 143A.020 equal to four and one-half percent (4.5%) of the gross value of natural gas that is produced from a recovered inactive well.

SECTION 3. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

(1) Any person may investigate an abandoned well upon receipt of approval from the department. The person shall submit to the department:

(a) An application requesting approval to investigate and stating the planned methods for the investigation;

(b) A twenty-five dollar ($25) fee; and

(c) A certification by the applicant that he has the authority to enter the property upon which the well is located and to conduct the investigation.

(2) The department shall review all applications for investigation. If the department approves the request for investigation, the applicant shall be allowed to produce the well without a permit as required by Section 4 of this Act, and the applicant shall submit a report of investigation to the department on forms provided by the department. In order to produce the well for more than sixty (60) days, the applicant must obtain a bond as required by KRS 353.590(5). Notwithstanding the provisions of KRS 353.590(2), no fee shall be required for any such well.

Section 4. KRS 353.570 is amended to read as follows:

(1) No person shall drill or deepen a well, or reopen a plugged well for the production of oil or gas or for the injection of water, gas or other fluid into any oil or gas producing formation (except seismograph test holes) after June 16, 1960, or drill or deepen a water supply well, and geological or structure test holes after June 16, 1966, until such person shall obtain a permit from the department***, except as provided in Section 3 of this Act***.

(2) When any applicant for a permit as required by this section has complied with the provisions of this chapter and all rules and regulations promulgated hereunder, the department shall issue the permit.

(3) The department may authorize the commencement of the drilling, deepening or reopening of any well prior to the issuance of a permit therefor; except if the location of the well is known to be underlaid by a coal-bearing stratum and consent of the owner, operator, and lessee of the coal-bearing stratum has not been granted. Consent shall be implied, when the coal-bearing stratum is owned by the oil and gas lessor or lessee, and the coal is not under lease to any third party.

HJR 121, A JOINT RESOLUTION proclaiming the fourth week of March each year as "Commonwealth Cleanup" week, and directing the Natural Resources and Environmental Protection Cabinet to support those communities that engage in spring cleaning in celebration of Kentucky's natural beauty.

WHEREAS the state of Kentucky has made significant improvements in the past twenty years in cleaning up the environment; and

WHEREAS many communities and government agencies have initiated their own cleanup programs in recent years; and

WHEREAS the Kentucky Transportation Cabinet spent more than $4 million in litter removal last year for a total of 221,000 man hours; and

WHEREAS such efforts as the Transportation Cabinet's Adopt-A-Highway Program now has 2,700 volunteer groups cleaning 14,000 miles of roadway at least four times annually; and

WHEREAS the Natural Resources and Environmental Cabinet has investigated more than 1,400 illegal dumps, issued more than 1,000 notices, and cleaned up more than 300 dumps since April 1997; and

WHEREAS the Natural Resources and Environmental Cabinet is involved in a cleanup program known as PRIDE that will clean up 40 Eastern and Southern Kentucky counties this spring;

WHEREAS such programs as the River Sweep of the Ohio River and its tributaries in 1997 had 22,000 volunteers, including 600 people cleaning up the Kentucky River and picking up 40 tons of trash; and

WHEREAS the annual Lake Cumberland Cleanup attracted more than 1,000 volunteers last year who gathered more than 4,200 bags of trash; and

WHEREAS these and other individual efforts can be enhanced through a statewide, coordinated cleanup week to beautify the entire Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The fourth week of March each year shall be "Commonwealth Cleanup" week, culminating with a statewide cleanup day on the Saturday of that week. This week shall provide an opportunity for Kentucky communities, in partnership with local, regional, and state entities, to clean and display the natural beauty of the Commonwealth.

Section 2. Local governments and private businesses shall be encouraged to participate in "Commonwealth Cleanup" week through developing, organizing, and implementing activities that highlight the natural beauty of their communities. They are encouraged to work in partnership with civic and volunteer organizations as well as corporate sponsors. Their goal shall be to consider the ways in which Kentucky's beauty enriches their daily living and underpins their economic vitality. Examples of "Commonwealth Cleanup" week activities include: encouraging local communities to offer prizes for those groups who collect the most litter; asking boat owners to volunteer their services to help remove litter from shorelines not easily reached by land; and setting up locations for recyclables.

Section 3. The Kentucky National Guard is encouraged to support this effort by providing logistical support across the Commonwealth to help clean up the sites too large for volunteer groups.

Section 4. The Natural Resources and Environmental Protection Cabinet shall promote "Commonwealth Cleanup" week by continuing to support those agencies and organizations wanting to clean up the environment. The support shall include providing technical assistance in assessing and understanding Kentucky's natural resources, coordinating contacts with other state and federal agencies that can assist with a project as appropriate, guiding local organizers to possible sources of funding to help implement a project as appropriate, overseeing a statewide campaign to publicize "Commonwealth Cleanup" week, and promoting those communities that have outstanding participation. This includes working in tandem with the Kentucky Department of Education to sponsor a statewide poster contest for children through the eighth grade.

Section 5. The month of March shall be designated as Environmental Education Month. During this time, state agencies involved in environmental education are encouraged to work with schools and communities to promote the environment and its preservation. Schools shall also be encouraged to sponsor cleanup or beautifying activities on their grounds during this month.

Section 6. The "Commonwealth Cleanup" week activities shall culminate with the Governor proclaiming the success of those communities, civic organizations, and corporate sponsors that excel in cleaning up where they live.

Section 7. The Natural Resources and Environmental Protection Cabinet shall report to the Legislative Research Commission by September 1, 1999, on the outcome of the first "Commonwealth Cleanup" week. The report may include suggestions for changes in the program.

SB 18, AN ACT relating to sewage disposal systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.350 is amended to read as follows:

(1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems that have a surface discharge.

(2) No person, firm, or corporation shall construct, install, alter, or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the ***local health department***~~[cabinet]~~. Nothing in this section shall be construed~~[as]~~ to deny a farmstead owner the right to obtain a permit. Except for farmstead owners on their own property, the construction, installation, or alteration shall be performed only by a person certified by the cabinet pursuant to KRS 211.357.

(3) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit if the cabinet ***or local***

health department through a duly-authorized inspector, employee, or agent finds that the system was not constructed, installed, or altered in conformance with the permit and regulations issued by the cabinet.

(4) ***No certified electrical inspector acting under authority of KRS 227.491 shall issue the certificates of approval of temporary or permanent electrical wiring unless the inspector has in his or her possession a notice of release as described in paragraphs (a) and (b) of this subsection. The inspector shall record the number of the notice of release on the certificate of approval. The person requesting approval of electrical wiring shall be responsible for obtaining the release from the local health department and providing it to the electrical inspector. This requirement shall only apply to dwellings, mobile homes, manufactured housing, buildings, or other structures that are constructed or installed after the effective date of this Act. This requirement shall not apply to structures that do not have sewage waste fixtures or to those that are connected to a sewage waste disposal system approved by the Natural Resources and Environmental Protection Cabinet. Nothing in this section shall be construed to deny the continued use of any electrical service connected to wiring approved prior to the effective date of this Act.***

(a) An initial notice of release to allow temporary electrical power for construction shall be issued to the property owner or owner's agent by the local health department upon the application for a site evaluation.

(b) A final notice of release to allow for permanent electrical power shall be issued to the property owner or owner's agent by the local health department upon approval of an on-site sewage disposal plan.

(c) This section shall not apply to any county that has adopted the Uniform State Building Code and has and enforces on-site sewage disposal permitting.

(5) All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, including results of soils tests and other information as directed by the cabinet by regulation. Any action to deny an application shall be subject to appeal, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(6)~~[(5)]~~ The cabinet shall fix a schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.

(7)~~[(6)]~~ Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992, shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.

(8)~~[(7)]~~ Nothing in this section shall authorize or allow the cabinet to inspect or take enforcement action against on-site sewage disposal systems installed on farmsteads prior to July 15, 1992, or modifications to those systems unless the actions are determined in writing by the cabinet, upon a written, verified complaint, to be necessary to prevent imminent harm or damage to the safety, life, or health of a person. In this instance, the cabinet shall deliver to the landowner a copy of the written determination and the verified complaint prior to the commencement of the inspection or enforcement action.

Section 2. KRS 211.981 is amended to read as follows:

(1) All sewage or sewage sludge hauled pursuant to the provisions of KRS 211.970 to 211.982 shall be disposed of ***by landspreading at an approved site or*** in a publicly-owned sewage treatment plant, unless it is demonstrated to the satisfaction of the cabinet that a publicly-owned sewage treatment plant does not exist within a reasonable hauling distance from the site at which the sewage or sewage sludge is received, or the publicly-owned sewage treatment plant refuses to accept the sewage or sewage sludge.

(2) If the cabinet determines that no publicly-owned sewage treatment plant is available for use by a licensed hauler, the cabinet may approve an alternative mode of disposal including, but not limited to, landspreading. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A governing landspreading and other acceptable modes of disposal which insure:

(a) That no contamination threat is posed to surface waters from any run-off; and

(b) That all reasonable protection is afforded to prevent contamination of groundwater.

(3) Trenching of sewage and sewage sludge shall be prohibited except where specifically authorized by the cabinet.

SB 42, AN ACT relating to flood control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the Department of Local Government shall administer and determine the disbursement of

funds for the Local Match Participation Program for statewide flood control projects.

(2) Funds appropriated for the Local Match Participation Program for statewide flood control projects may be used as matching funds by local governments for flood related projects with:

- ***(a) The United States Army Corps of Engineers;***
- ***(b) The Federal Emergency Management Agency (FEMA); and***
- ***(c) Other flood-related federal government grant and loan programs requiring local matching funds.***

(3) Any general fund appropriations made for the Local Match Participation Program for statewide flood control projects may also be used for flood control planning and mitigation activities.

SB 59, AN ACT relating to the definition of "sportsman."

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.022 is amended to read as follows:

(1) The Department of Fish and Wildlife Resources Commission shall consist of nine (9) members, one (1) from each wildlife district, as set out by the commissioner with the approval of the commission, and not more than five (5) of the same political party.

(2) The Governor shall appoint the members of the commission. Each of ***the***[~~such~~] members shall be appointed for a term of four (4) years.

(3) Vacancies through the expiration of terms of the members of the commission shall be filled by appointment by the Governor from a list of five (5) names from each wildlife district, recommended and submitted by the sportsmen of each respective district. When the term of a member expires, the commissioner shall call a meeting of the sportsmen in that district not later than thirty (30) days prior to the expiration of ***the***[~~such~~] member's term. Notice of the meeting shall be given by publication pursuant to KRS Chapter 424. At ***the***[~~such~~] meeting, the sportsmen in attendance shall select and submit to the Governor a list of five (5) residents and citizens of the district who are well informed on the subject of wildlife conservation and restoration. Each sportsman may vote for one (1) candidate only, and the list submitted to the Governor shall be made up of the names of the five (5) candidates receiving the five (5) highest vote totals. The Governor shall appoint a successor to the member whose term is about to expire within sixty (60) days following the submission to him of the list[~~ hereinabove~~] referred to ***in this subsection***, and in no event later than August 13.

(4) Upon appointment to the commission of the Department of Fish and Wildlife Resources, each commissioner shall execute a bond of one thousand dollars ($1,000) in favor of the Department of Fish and Wildlife Resources, the premium on ***this***[~~said~~] bond to be paid out of department funds.

(5) In the event of vacancies other than by expiration, the Governor shall fill the vacancy for the unexpired part of the term from the names remaining on the list previously submitted for the district from which the vacancy arose.

(6) Each member of the commission shall take the constitutional oath of office.

(7) The Governor may remove any member of the commission for inefficiency, neglect of duty, or misconduct in office; but shall first deliver to ***the***[~~such~~] member a copy of all charges in writing and afford to him an opportunity of being publicly heard in person or by counsel in defense of ***the***[~~such~~] charges, upon not less than ten (10) days' notice. If a member shall be removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against ***the***[~~such~~] member and his findings thereon, together with a complete record of the proceedings.

(8) Each member of the commission shall be entitled to reimbursement for actual and necessary traveling and other expenses incurred by him in the discharge of his official duties and to be paid from the game and fish fund.

(9) A majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power vested in the commission.

(10) The department shall have its principal office in Franklin County, and is authorized to purchase all supplies, equipment***,*** and printed forms and to issue ***any***[~~such~~] notices and publications as the commissioner may deem necessary to carry out the provisions of this chapter.

(11) The word "sportsman" as used in this section shall mean a resident hunter or fisherman who has been licensed***, or a resident who has registered a motorboat,*** in Kentucky for each of the past two (2) consecutive years.

SB 253, AN ACT relating to the designation of coal as the official mineral of Kentucky.

WHEREAS, since the first commercial mine opened in 1820 at McLean Drift Bank in western Kentucky, and since a young mountaineer, John Mayo, rode his horse across the eastern Kentucky mountains opening mines, coal, or "black gold" as he called it, has been the lifeblood for thousands of Kentuckians; and

WHEREAS, coal continues to be mined all across the Commonwealth, from Paradise down by the Green River in Muhlenberg County to Pigeon Roost in Martin County; and

WHEREAS, for the last half-century, Kentucky has led the nation in coal production, which has provided jobs, salaries, and economic wealth to thousands of Kentuckians; and

Whereas, more miners work in Kentucky than any other state, as some 25,000 miners earn their living "digging coal" in the Bluegrass State; and

WHEREAS, Kentucky native recording artists, such as Loretta Lynn and Dwight Yoakam, have recorded many songs, including "Coal Miner's Daughter" and "Coal Miner's Prayer," that connect coal to life in the Commonwealth; and

WHEREAS, carbide lanterns, mule-drawn carts, and coal shovels certainly are as symbolic of Kentucky life as tobacco barns, grazing horses, and bluegrass music, and coal has indeed been a major part of our state's identity, heritage and history;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Coal is named and designated as the official mineral of Kentucky.

Calendar

HB 484, HB 499, HB 519, HB 641, HB 642, HCR 7, HCR 11, HCR 15, HCR 16, HCR 17, HCR 18, and **HCR 20** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Natural Resources and Environment: **HB 877**

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended retroactively in order that any action taken on bills in the Appropriations and Revenue Committee meeting be accepted. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 739**, by Representative Cave:

On page 2, after line 3, by adding:

"***(5) A filing made in accordance with this section shall be for notice purposes only.***".

Floor Amendment No. 2 to **HB 739**, by Representative Cave:

On page 1, line 14, after "***KRS 355.9-401,***" by inserting "***beginning on January 4, 1999,***".

Floor Amendment No. 35 to the Committee Substitute to **HB 85**, by Representative Jordan:

On page 2, line 18, after the words "***of a***", to insert the words "***fetal anomaly or if it is a***"; and
On page 6, line 1, after the word "***necessity***" to insert the words "***or if there is a fetal anomaly***".

Floor Amendment No. 2 to **HB 728**, by Representative Nesler:

On page 2, between lines 16 and 17, add the following new sections to read as follows:

"Section 4. KRS 244.085 is amended to read as follows:

(1) As used in KRS 244.083 and this section: "Premises" means the place of business of a person licensed to sell alcoholic beverages including, in the case of drive-in establishments, the entire lot upon which the business establishment is situated.

(2) *A*[~~No~~] person under 21 years of age shall ***not*** enter any premises licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverages.

(3) *A*[~~No~~] person under 21 years of age shall ***not*** possess for his or her own use, or purchase or attempt to purchase or have another purchase for him or her any alcoholic beverages. *A*[~~No~~] person shall ***not*** aid or assist any person under 21 years of age in purchasing or having delivered or served to him or her any alcoholic beverages.

(4) *A*[~~No~~] person under 21 years of age shall ***not*** misrepresent his or her age for the purpose of inducing any licensee, or other employee of any licensee, to sell or serve any alcoholic beverages to ***the***[~~such~~] person.

(5) *A*[~~No~~] person under 21 years of age shall ***not*** use, or attempt to use any false, fraudulent, or altered identification card or paper or any other document to purchase or attempt to purchase or otherwise obtain any alcoholic beverage.

(6) In addition to any other penalty imposed by this chapter, a person who violates the provisions of this section shall be subject to suspension or revocation of the person's instruction permit or operator's license under the provisions of Section 5 of this Act.

Section 5. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and

(j) Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) Except as provided in subsections (3), (4), and (8) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2)

years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085[~~(5)~~] as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(h) of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation."; and

On page 2, line 17, renumber "Section 4" as "Section 6"; and

On page 3, line 8, after the words "provisions of" place brackets around and strike through the words "subsection (5) of"; and

On page 3, line 10, after the word "misdemeanor" and before the period "." insert: "***and shall be subject to suspension or revocation of the person's instruction permit or operator's license under the provisions of Sections 4 and 5 of this Act***".

Floor Amendment No. 1 to the Committee Substitute to **HB 642**, by Representative Stein:

On page 10, line 9, by deleting "***schools***", and inserting "***school districts***" in lieu thereof.

Floor Amendment No. 4 to the Committee Substitute to **HB 49**, by Representative Bratcher:

On page 1, lines 1 through 18, by deleting them in their entirety and inserting in lieu thereof:

"Section 1. (1) Whereas, recent flooding in counties containing a city of the first class has caused great concern about future development within the floodplain areas of those counties in addition to concerns about existing drainage and storm water capacities in those areas, there shall be created a legislative task force to study these and other related issues during the 1998 - 1999 interim.

(2) The membership of the task force shall be as follows:

(a) Four (4) legislative members representing counties with a city of the first class. Of these, there shall be two (2) members from each of the respective legislative chambers, with each representing a different political party;

(b) The mayor of each city of the first class or his designee;

(c) The county judge/executive of each county containing a city of the first class or his designee;

(d) One (1) member representing an organized league of cities in each county containing a city of the first class to be appointed by the Governor;

(e) One (1) member representing the planning commission representative of each city of the first class and their county to be appointed by the Governor;

(f) One (1) member representing the United States Army Corps of Engineers;

(g) One (1) member representing commercial business interests in a county containing a city of the first class to be appointed by the Governor;

(h) One (1) member representing the building and construction industry in a county containing a city of the first class to be appointed by the Governor;

(i) One (1) member representing the largest commercial airport in a county containing a city of the first class to be appointed by the Governor;

(j) One (1) member representing environmental concerns in a county containing a city of the first class to be appointed by the Governor;

(k) One (1) member representing a metropolitan sewer district in a county containing a city of the first class; and

(l) Five (5) members appointed from a group representing a consortium of community leadership associations within each county counting a city of the first class to be appointed by the Governor.

(3) The task force shall begin its activities no later than August 1, 1998, and shall report its findings and recommendations to the Legislative Research Commission and the members of the Kentucky General Assembly no later than September 1, 1999.

(4) The chair and vice chair of the task force shall be selected from among the legislative members by the Speaker of the House of Representatives and the President of the Senate.

(5) Task force members other than members of the General Assembly shall be reimbursed for necessary expenses for travel to meetings outside of each county containing a city of the first class. The members of the General Assembly shall be paid their regular per diem allotment and necessary travel expenses for their attendance the same as for regular interim committee meetings.

(6) Staff services to be utilized in completing this study are estimated to cost thirty thousand dollars ($30,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

SECTION 2 A NEW SECTION OF KRS CHAPTER 104 IS CREATED TO READ AS FOLLOWS:

No county with a city of the first class, any city within that county, or other local government entity within that county capable of regulating construction shall pass an ordinance banning the construction of either or both of the following:

(1) Single-family dwellings and commercial buildings in any floodplain within its jurisdiction located on properties the boundaries of which are contiguous with a river; or

(2) Single-family dwellings and commercial buildings on properties contiguous to the properties listed in subsection (1) of this section..".

Floor Amendment No. 1 to **SB 33**, by Representative Barrows:

On page 1, line 4 by deleting the bracket and strikethroughs.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 13, HB 562, SB 33, SB 54, HB 469, HB 266, HB 635, HB 650, HB 667, HB 690, HB 588, HB 612, HB 675, HB 484, HB 499, HB 641, HB 642, HCR 7, HB 324, HB 480** and **HB 483** have been posted for passage in the Orders of the Day for March 11, 1998.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 519**

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 682**, by Representative Clarke:

On page 1, line 18, after the words "***counties in Kentucky to***" by deleting the words "***no more than seventy (70)***" and by inserting in lieu thereof the words "***the least number of counties feasible, that number to be determined by the commission***".

Orders of the Day

HB 625, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 625**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 625**. Agreed.

Representative Barrows moved that **HB 625**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 52, Nays 40 (See March 10, 1998 roll call on **HB 625** - Appendix.) **HB 625**, by way

of Committee Substitute as amended, was passed and the title agreed to. Representative Barrows moved that the vote by which **HB 625**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 643, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **HB 643**. Agreed.

Representative Barrows moved that **HB 643**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 10, 1998 roll call on **HB 643** - Appendix.) **HB 643**, as amended, was passed and the title agreed to. Representative Barrows moved that the vote by which **HB 643**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 671, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved the adoption of Floor Amendment No. 3 to **HB 671**. Agreed.

Representative DeWeese moved that **HB 671**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 10, 1998 roll call on **HB 671** - Appendix.) **HB 671**, as amended, was passed and the title agreed to. Representative DeWeese moved that the vote by which **HB 671**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 434, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 434**. Agreed.

Representative Burch moved that **HB 434**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 10, 1998 roll call on **HB 434** - Appendix.) **HB 434**, by way of Committee Substitute, was passed and the title agreed to. Representative Burch moved that the vote by which **HB 434**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 503, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 503**. Agreed.

Representative Stumbo moved that **HB 503**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 3 (See March 10, 1998 roll call on **HB 503** - Appendix.) **HB 503**, by way of Committee Substitute, was passed and the title agreed to. Representative Stumbo moved that the vote by which **HB 503**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 82 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Allen moved that **HCR 82** be adopted.

On the roll call the vote was: Yeas 88, Nays 5 (See March 10, 1998 roll call on **HCR 82** - Appendix.) **HCR 82** was adopted. Representative Allen moved that the vote by which **HCR 82** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 65 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **HB 65** be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 10, 1998 roll call on **HB 65** - Appendix.) **HB 65** was passed and the title agreed to. Representative P. Clark moved that the vote by which **HB 65** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 709**, by Representative Geveden:

On page 1, line 3, on page 4, line 11, on page 5, lines 12, 19, and 25, on page 21, line 23, on page 25, lines 16 and 17, on page 26, lines 4, 18, and 22, on page 27, lines 2, 7, and 24, on page 28, line 5, and on page 29, line 1 by deleting "***29***" and inserting "***30***"; and

On page 29, between lines 7 and 8, by inserting

"SECTION 30 A NEW SECTION OF SUBCHAPTER 51 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS;

Nothing in Sections 1 to 30 of this Act shall be construed to prohibit local governments from enacting ordinances or laws affecting swine feeding operations that are more stringent than those contained in Sections 1 to 30 of this Act."; and

by renumbering subsequent sections to conform; and on page 33, line 15, by deleting "***Section 31***" and inserting "***Section 32***" in lieu thereof.

Floor Amendment No. 1 to **HB 289**, by Representative Barrows:

On page 3, line 8 after "money" by inserting "***specifically appropriated by the General Assembly to the affordable housing trust fund***"; and

On page 3, line 9 after "***198A.710***" by adding "***, in quarterly installments***".

Floor Amendment No. 4 to **HB 535**, by Representative Crimm:

On page 1, line 4, after the word "***of***" by deleting "***two (2)***" and inserting "***three (3)***" in lieu thereof;

On page 6, line 23, after the period "***.***", by inserting "***The state board may only reject the proposal if the number of teachers and parents are not equal.***"; and

On page 22, line 12, after the word "council", by inserting "***, or employee of an organization representing any of these individuals,***".

Orders of the Day (Continued)

HB 539 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 539** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 10, 1998 roll call on **HB 539** - Appendix.) **HB 539** was passed and the title agreed to. Representative Weaver moved that the vote by which **HB 539** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Mason moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Mason moved the adoption of the following **Legislative Citation No. 140**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends a most ardent welcome to General Barry R. McCaffrey Director of the Office of National Drug Control Policy. Having served as the senior drug policy official in the Executive Branch and as the President's chief drug policy spokesman, General McCaffrey has worked with great honor and distinction to guide and develop the national anti-drug effort. This distinguished gentleman served as a member of the National Security Council and the Council on Counternarcotics, as Commander-in-Chief of the U.S. Southern Command and, as a result of his exceptional military service, became the youngest four star general in the U.S. Army and a two-time recipient of the Distinguished Service Cross. General Barry McCaffrey has labored with great passion and integrity to protect and promote the health and safety of the youth of this nation and of this Commonwealth, and he is hereby applauded for his phenomenal work. The members of the Kentucky House of Representatives are indeed honored to join with Representative Paul Mason in paying tribute to the stellar military and political career of General McCaffrey and in extending to him most reverent sentiments of gratitude for his efforts on behalf of our nation's children. **Legislative Citation No. 140** was adopted without objection.

HB 582, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. D. Butler moved the adoption of the Committee Substitute to **HB 582**. Agreed.

Representative Vincent moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 582**. Agreed.

Representative Gray moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 582**. Agreed.

Representative D. D. Butler moved that **HB 582**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0 (See March 10, 1998 roll call on **HB 582** - Appendix.) **HB 582**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative D. D. Butler moved that the vote by which **HB 582**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 45 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HB 45** be passed.

On the roll call the vote was: Yeas 94, Nays 1 (See March 10, 1998 roll call on **HB 45** - Appendix.) **HB 45** was passed and the title agreed to. Representative Ballard moved that the vote by which **HB 45** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 690**, by Representative Geveden:

On page 1, line 24, after "shall" insert "*, after consultation with the Detention Facility Standards Committee,*".

Floor Amendment No. 2 to **HB 690**, by Representative Geveden:

On page 21, between lines 10 and 11, to insert the following:

"SECTION 28. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The Department of Juvenile Justice shall establish a Detention Facility Standards Committee which shall review and recommend administrative regulations relating to at least the following aspects of county-operated juvenile detention facilities:

(a) Health and safety conditions;

(b) Fire safety;

(c) Jail operations, recordkeeping, and administration;

(d) Curriculum of basic and continuing annual training for jailers and jail personnel;

(e) Custody, care, and treatment of detainees;

(f) Medical care; and

(g) Jail equipment, renovation, and construction.

(2) The committee shall be appointed by the commissioner and shall be composed of representatives having knowledge of juvenile detention facilities and of the various areas identified in subsection (1) of this section. At least thirty-three percent (33%) of the membership shall be appointed from persons representing county interests.

(3) The committee shall be in force until such time as the state reimburses counties eighty percent (80%) of the cost of detention in accordance with the statewide detention program."; and

To renumber the ensuing sections accordingly.

Orders of the Day (Continued)

HB 122, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 122**. Agreed.

Representative Thomas moved that **HB 122**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 1 (See March 10, 1998 roll call on **HB 122** - Appendix.) **HB 122**, by way

of Committee Substitute, was passed and the title agreed to. Representative Thomas moved that the vote by which **HB 122**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 334 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **HB 334** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 10, 1998 roll call on **HB 334** - Appendix.) **HB 334** was passed and the title agreed to. Representative Simpson moved that the vote by which **HB 334** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 495, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of Floor Amendment No. 1 to **HB 495**. Agreed.

Representative Gooch moved that **HB 495**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 10, 1998 roll call on **HB 495** - Appendix.) **HB 495**, as amended, was passed. Representative Gooch moved the adoption of Floor Amendment No. 2 Title to **HB 495**. Agreed; and the title was agreed to. Representative Gooch moved that the vote by which **HB 495**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 490 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **HB 490** be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 10, 1998 roll call on **HB 490** - Appendix.) **HB 490** was passed and the title agreed to. Representative Crenshaw moved that the vote by which **HB 490** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 496, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **HB 496**. Agreed.

Representative Gooch moved that **HB 496**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 10, 1998 roll call on **HB 496** - Appendix.) **HB 496**, by way of Committee Substitute, was passed and the title agreed to. Representative Gooch moved that the vote by which **HB 496**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 527 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 527** be passed.

On the roll call the vote was: Yeas 79, Nays 12 (See March 10, 1998 roll call on **HB 527** - Appendix.) **HB 527** was passed and the title agreed to. Representative Gray moved that the vote by which **HB 527** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 648 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 648** be passed.

On the roll call the vote was: Yeas 91, Nays 1 (See March 10, 1998 roll call on **HB 648** - Appendix.) **HB 648** was passed and the title agreed to. Representative Callahan moved that the vote by which **HB 648** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 783 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 783** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 10, 1998 roll call on **HB 783** - Appendix.) **HB 783** was passed and the title agreed to. Representative Long moved that the vote by which **HB 783** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 684 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **HB 684** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 10, 1998 roll call on **HB 684** - Appendix.) **HB 684** was passed and the title agreed to. Representative Riggs moved that the vote by which **HB 684** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 722, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of the Committee Substitute to **HB 722**. Agreed.

Representative Kerr moved that **HB 722**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 10, 1998 roll call on **HB 722** - Appendix.) **HB 722**, by way of Committee Substitute, was passed and the title agreed to. Representative Kerr moved that the vote by which **HB 722**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 725 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **HB 725** be passed.

On the roll call the vote was: Yeas 93, Nays 1 (See March 10, 1998 roll call on **HB 725** - Appendix.) **HB 725** was passed and the title agreed to. Representative Lindsay moved that the vote by which **HB 725** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 739 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HB 739** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 10, 1998 roll call on **HB 739** - Appendix.) **HB 739** was passed and the title agreed to. Representative Bruce moved that the vote by which **HB 739** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 742 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 742** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 10, 1998 roll call on **HB 742** - Appendix.) **HB 742** was passed and the title agreed to. Representative Gray moved that the vote by which **HB 742** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 60, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Zimmerman moved the adoption of the Committee Substitute to **HJR 60**. Agreed.

Representative Zimmerman moved that **HJR 60**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 91, Nays 1 (See March 10, 1998 roll call on **HJR 60** - Appendix.) **HJR 60**, by way of Committee Substitute, was adopted. Representative Zimmerman moved that the vote by which **HJR 60**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 217, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved the adoption of Committee Amendment No. 1 to **HB 217**. Agreed.

Representative P. Clark moved that **HB 217**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 10, 1998 roll call on **HB 217** - Appendix.) **HB 217**, as amended, was passed and the title agreed to. Representative P. Clark moved that the vote by which **HB 217**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **SB 164, SB 234, SB 276, SB 304, SB 343, SB 352, SB 353, SB 395, SJR 118, HB 15, HB 129, HB 142, HB 370, HB 415,** and **HJR 2**. Message received on **HB 311**: The Senate has passed **HB 311** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 431**: The Senate has passed **HB 431** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 4:20 p.m.)

Orders of the Day (Continued)

HB 249, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 249**. Agreed.

Representative Marzian moved that **HB 249**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See March 10, 1998 roll call on **HB 249** - Appendix.) **HB 249**, by way of Committee Substitute, was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 249**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 444, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 444**. Agreed.

Representative Moberly moved that **HB 444**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 10, 1998 roll call on **HB 444** - Appendix.) **HB 444**, as amended, was passed. Representative Moberly moved the adoption of Committee Amendment No. 2 Title to **HB 444**. Agreed; and the title was agreed to. Representative Moberly moved that the vote by which **HB 444**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 449, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of the Committee Substitute to **HB 449**. Agreed.

Representative Lee moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 449**. Agreed.

Representative Lee moved that **HB 449**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 10, 1998 roll call on **HB 449** - Appendix.) **HB 449**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Lee moved that the vote by which **HB 449**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 544, with Committee Substitutes and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved the adoption of the Committee Substitute No. 2 to **HB 544**. Agreed.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 544**. Agreed.

Representative Bowling moved that **HB 544**, by way of Committee Substitute No. 2 as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See March 10, 1998 roll call on **HB 544** - Appendix.) **HB 544**, by way of Committee Substitute No. 2 as amended, was passed and the title agreed to. Representative Bowling moved that the vote by which **HB 544**, by way of Committee Substitute No. 2 as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 617, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of Committee Amendment No. 1 to **HB 617**. Agreed.

Representative Lee moved that **HB 617**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0 (See March 10, 1998 roll call on **HB 617** - Appendix.) **HB 617**, as amended, was passed and the title agreed to. Representative Lee moved that the vote by which **HB 617**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 703, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved the adoption of the Committee Substitute to **HB 703**. Agreed.

Representative DeWeese moved that **HB 703**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 0 (See March 10, 1998 roll call on **HB 703** - Appendix.) **HB 703**, by way of Committee Substitute, was passed and the title agreed to. Representative DeWeese moved that the vote by which **HB 703**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 529 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 529** be passed.

On the roll call the vote was: Yeas 85, Nays 0 (See March 10, 1998 roll call on **HB 529** - Appendix.) **HB 529** was passed and the title agreed to. Representative Heleringer moved that the vote by which **HB 529** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 324**, by Representative Cave:

On page 1, line 7, after "***greater***" by inserting "***of the members or voting rights or interests of a nonprofit health care facility or of the assets of a nonprofit health care facility***"; and

On page 1, line 9, after "***control***" by inserting "***of the members or voting rights or interests of a nonprofit health care facility or of the assets***"; and

On page 1, line 25, after the words "***other health***" by deleting the word "***care***".

Orders of the Day (Continued)

HB 552, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **HB 552** be passed.

On the roll call the vote was: Yeas 86, Nays 0 (See March 10, 1998 roll call on **HB 552** - Appendix.) **HB 552** was passed. Representative Lindsay moved the adoption of the Committee Amendment No. 1 Title to **HB 552**. Agreed; and the title was agreed to. Representative Lindsay moved that the vote by which **HB 552,** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 689 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 689** be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See March 10, 1998 roll call on **HB 689** - Appendix.) **HB 689** was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 689** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 692, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 692**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 692**. Agreed.

Representative Wilkey moved that **HB 692**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 10, 1998 roll call on **HB 692** - Appendix.) **HB 692**, by way of Committee Substitute as amended, was passed. Representative Wilkey moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 692**. Agreed; and the title was agreed to. Representative Wilkey moved that the vote by which **HB 692**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 736 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **HB 736** be passed.

On the roll call the vote was: Yeas 86, Nays 4 (See March 10, 1998 roll call on **HB 736** - Appendix.) **HB 736** was passed and the title agreed to. Representative Stein moved that the vote by which **HB 736** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 740, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved the adoption of the Committee Substitute to **HB 740**. Agreed.

Representative R. Adams moved that **HB 740**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 83, Nays 2 (See March 10, 1998 roll call on **HB 740** - Appendix.) **HB 740**, by way of Committee Substitute, was passed and the title agreed to. Representative R. Adams moved that the vote by which **HB 740**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 775 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jordan moved that **HB 775** be passed.

On the roll call the vote was: Yeas 79, Nays 10 (See March 10, 1998 roll call on **HB 775** - Appendix.) **HB 775** was passed and the title agreed to. Representative Jordan moved that the vote by which **HB 775** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 754 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **HB 754** be passed.

On the roll call the vote was: Yeas 88, Nays 1 (See March 10, 1998 roll call on **HB 754** - Appendix.) **HB 754** was passed and the title agreed to. Representative Bowling moved that the vote by which **HB 754** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 854 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **HB 854** be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 10, 1998 roll call on **HB 854** - Appendix.) **HB 854** was passed and the title agreed to. Representative Simpson moved that the vote by which **HB 854** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 668, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 668**. Agreed.

Representative Barrows moved that **HB 668**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 1 (See March 10, 1998 roll call on **HB 668** - Appendix.) **HB 668**, by way of Committee Substitute, was passed and the title agreed to. Representative Barrows moved that the vote by which **HB 668**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 699 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **HB 699** be passed.

On the roll call the vote was: Yeas 63, Nays 17 (See March 10, 1998 roll call on **HB 699** - Appendix.) **HB 699** was passed and the title agreed to. Representative R. Adams moved that the vote by which **HB 699** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 774 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected. Representative Stumbo moved that **HB 774** be placed back in the Orders of the Day. Agreed.

HB 776 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative G. Graham moved that **HB 776** be passed.

On the roll call the vote was: Yeas 88, Nays 5 (See March 10, 1998 roll call on **HB 776** - Appendix.) **HB 776** was passed and the title agreed to. Representative G. Graham moved that the vote by which **HB 776** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 15, HB 129, HB 142, HB 370, HB 415,** and **HJR 2** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 5:30 p.m.)

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended to reassign **HB 780** to Economic Development and to waive the three day posting requirement. Agreed.

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement retroactively on **HCR 126**. Agreed.

Representative Stumbo moved that the rules be suspended to move **HB 714** from Appropriations and Revenue to the House Floor. Agreed.

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **HB 864, HB 255, HB 767, HB 813, HCR 125** and **HCR 94**. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **HB 633**, by Representative Barrows:

On page 3, line 27 after "***incentives.***" by inserting "***Only federal funds designated for performance incentives may be used to pay the performance award. No state funds shall be used for incentive awards authorize in this section.***";

On page 8, line 9 by deleting "***and***";

On page 8, line 12 after the word "Assembly" by removing all brackets and strike throughs through the word "programs" on line 15, place an opening bracket before "~~and~~";

On page 8, line 13 by bracketing and striking through the word "quarterly" and inserting the word "***annually***" before quarterly;

On page 10, line 17 by deleting the words "***administrative regulation***" and removing the bracket and strike throughs on the word "~~[statute]~~";

On page 10, after line 17 by inserting the following:

"***(3) No pilot personnel program proposed after the effective date of this Act shall become effective until the program has been presented for review by the Interim Joint Committee on State Government.***";

On page 12, line 9 by deleting "***1999***" and inserting "***2000***" in lieu thereof; and

On page 12, line 10 after the word "***be***" by deleting the rest of lines 10 and 11 and inserting "***presented to the Kentucky General Assembly for consideration for enactment into KRS Chapter 18A***".

Floor Amendment No. 1 to the Committee Substitute to **HB 285** , by Representative Coleman:

On page 1, line 3, following "***paramedic***" to insert "***who has successfully completed training in determination of death***"; and

On page 2, line 22, following "***registered nurse***" to insert "***who has successfully completed training in determination of death***"; and

On page 4, line 13, to insert "***(1)***" at the beginning of the line; and

On page 4, between lines 16 and 17, to insert the following:

"***(2) This section shall not preclude or limit the filing of civil litigation in a court of appropriate jurisdiction.***"; and

On page 4, line 19, to insert "***(1)***" at the beginning of the line; and

On page 4, between lines 22 and 23, to insert the following:

"***(2) This section shall not preclude or limit the filing of civil litigation in a court of appropriate jurisdiction.***".

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 130, by Representatives Burch, Crenshaw, Nunn, Crall, Marzian, Johns, L. Clark, and Jenkins: A RESOLUTION in support of liver transplantation in the Commonwealth of Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 743, SCR 95**

Banking and Insurance: **HB 905**

Tourism Development and Energy: **HJR 110**

Judiciary: **SB 58, SB 61, SB 88, SB 119, SB 146, SB 171, SB 205, HB 818**

Cities: **HB 863, HB 697, HB 701,** Posting withdrawn on **HB 837**

Transportation: **HB 790, HB 827, HJR 115, HCR 119, SB 122, SB 233, SB 106**

Health and Welfare: **HB 864**

Labor and Industry: **HB 822**

Report of Committees (Continued)

The Committee on State Government reported **HB 554**, with Committee Substitute attached thereto, **HB 596, HB 646,** with Committee Substitute attached thereto, **HB 727**, with Committee Substitute attached thereto, **HB 732, HB 768**, with Committee Substitute attached thereto, **HB 789, HB 853, HB 887, SB 75**, and **SB 142** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 554, AN ACT relating to the awarding of public contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.485 is amended to read as follows:

(1) Any state contract awarded under KRS Chapter 45A, 175, 176, 177, or 180 after July 15, 1994, shall require the contractor ***and all subcontractors performing work under the contract*** to:

(a) Reveal any final determination of a violation by the contractor ***or subcontractor*** within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor ***or subcontractor***, and

(b) Be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor ***or subcontractor*** for the duration of the contract.

(2) A contractor's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall ***result in***[~~be grounds for~~] the Commonwealth's:

(a) Cancellation of the contract; and

(b) Disqualification of the contractor from eligibility for future state contracts for a period of two (2) years.

Section 2. KRS 45A.343 is amended to read as follows:

(1) Any local public agency may adopt the provisions of KRS 45A.345 to 45A.460. No other statutes governing purchasing shall apply to a local public agency upon adoption of these provisions.

(2) After July 15, 1994, any contract entered into by a local public agency, whether under KRS 45A.345 to 45A.460 or any other authority, shall require the contractor ***and all subcontractors performing work under the contract*** to:

(a) Reveal any final determination of a violation by the contractor ***or subcontractor*** within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor ***or subcontractor***; and

(b) Be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor ***or subcontractor*** for the duration of the contract.

(3) A contractor's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall ***result in***[~~be grounds for~~] the local public agency's:

(a) Cancellation of the contract; and

(b) Disqualification of the contractor from eligibility for future contracts awarded by the local public agency for a period of two (2) years.

The Committee Substitute to **HB 554** is as follows:

AN ACT relating to the awarding of public contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.485 is amended to read as follows:

(1) Any state contract awarded under KRS Chapter 45A, 175, 176, 177, or 180 after July 15, 1994, shall require the contractor ***and all subcontractors performing work under the contract*** to:

(a) Reveal any final determination of a violation by the contractor ***or subcontractor*** within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor ***or subcontractor***, and

(b) Be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor ***or subcontractor*** for the duration of the contract.

(2) A contractor's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the Commonwealth's:

(a) Cancellation of the contract; and

(b) Disqualification of the contractor from eligibility for future state contracts for a period of two (2) years.

Section 2. KRS 45A.343 is amended to read as follows:

(1) Any local public agency may adopt the provisions of KRS 45A.345 to 45A.460. No other statutes governing purchasing shall apply to a local public agency upon adoption of these provisions.

(2) After July 15, 1994, any contract entered into by a local public agency, whether under KRS 45A.345 to 45A.460 or any

other authority, shall require the contractor ***and all subcontractors performing work under the contract*** to:

(a) Reveal any final determination of a violation by the contractor ***or subcontractor*** within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor ***or subcontractor***; and

(b) Be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor ***or subcontractor*** for the duration of the contract.

(3) A contractor's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the local public agency's:

(a) Cancellation of the contract; and

(b) Disqualification of the contractor from eligibility for future contracts awarded by the local public agency for a period of two (2) years.

HB 596, AN ACT relating to executive branch ethics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.020 is amended to read as follows:

(1) No public servant, by himself or through others, shall knowingly:

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

(2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

(3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

(4) The prohibitions imposed by subsection (1)(c) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

Section 2. KRS 11A.040 is amended to read as follows:

(1) No public servant, in order to further his own economic interests, or those of any other person, shall knowingly disclose or use confidential information acquired in the course of his official duties.

(2) No public servant shall knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

(3) No public servant shall knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

(4) No public servant shall knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:

(a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or

(b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or

(c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises.

(5) No public servant shall knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

(6) No present or former officer or public servant listed in KRS 11A.010 (9)(a) to (i) shall, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

(7) A former public servant shall not act as a lobbyist or lobbyist's principal for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(8) A former public servant shall not represent a person in a matter before a state agency in which the former public servant was directly involved, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(9) Without the approval of the commission, no public servant shall accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds. The commission shall promulgate administrative regulations to establish a procedure for the approval of outside employment of a public servant, including a requirement that the public servant and his appointing authority state in writing that the public servant is not in a position to influence any agency decision relating to the outside employer.

(10) The prohibitions imposed by subsection (5) or (9) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

HB 646, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service***, except that for an employee whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System***;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour work days, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal

year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month; and

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically-demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically-acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests.

The Committee Substitute to **HB 646** is as follows:

AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service***, except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999***;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year

period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour work days, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be

consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month; and

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically-demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically-acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests.

HB 727, AN ACT relating to state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the commissioner;

(2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;

(3) "Board" means the Personnel Board created by KRS 18A.045;

(4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;

(5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the commissioner on request of an appointing officer for consideration in filling a position in the classified service;

(6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(7) ***"Classified employee" means an employee appointed to a position in the classified service whose appointment and continued employment are subject to the classified service provisions of this chapter;***

(8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;

(9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

(10)[~~(8)~~] "Commissioner" means the commissioner of the Department of Personnel as provided for in KRS 18A.015;

(11)[~~(9)~~] "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;

(12)[~~(10)~~] "Department" means the Department of Personnel provided for in KRS 18A.015, unless the context indicates otherwise;

(13)[~~(11)~~] "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;

[~~(12) "Emergency employee" means an employee appointed without regard to the examination requirements of KRS 18A.010 to 18A.200 to any position by reason of a governmental emergency. An emergency appointment shall not exceed thirty (30) working days in duration and is nonrenewable;~~]

(14)[~~(13)~~] "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time***,*** [~~or~~] part-time***, or interim*** basis;

(15) "Full-time employee" means an employee in a full-time position;

(16)[~~(14)~~] ***"Full-time position" means a position requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except that positions in the state parks where the work assigned is dependent upon fluctuations in tourism may be assigned work hours of not less than twenty-five (25) hours per week during the off seasons and remain in full-time positions***[~~Federally funded time-limited employee" means an employee appointed to a federally funded time-limited position and, except as provided in KRS 18A.115, may in all other respects be entitled to the benefits provided permanent, full-time regular employees as defined in this chapter~~];

[~~(15) "Federally funded time-limited position" means a position created for the specific purpose of providing public service employment or one (1) time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;~~]

(17)[~~(16)~~] "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence. "Initial probation" does not include a probationary period served by a laid-off employee who accepts a bona fide written offer of appointment;

(18) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;

(19) "Interim position" means a position established to address a one time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;

(20) "Part-time employee" means an employee in a part-time position;

(21) "Part-time position" means a position requiring an employee to work less than one hundred (100) hours per month;

(22)[~~(17)~~] "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employees;

(23)[~~(18)~~] "Position" means an office or employment in an agency (whether part-time, full-time,[~~ permanent, temporary, seasonal, federally funded time-limited,~~] or ***interim***[~~emergency~~], occupied, or vacant) involving duties requiring the services of one (1) person;

(24)[~~(19)~~] "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;

(25)[~~(20)~~] "Promotional probation" means the [~~six (6) month~~] period of service following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;

[~~(21) "Provisional employee" means any employee appointed on a temporary or interim basis to a permanent position under KRS 18A.010 to 18A.200 without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18A.110(7)(h);~~]

(26)[~~(22)~~] "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;

(27)[~~(23)~~] "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;

(28)[~~(24)~~] "Reemployment" shall mean the rehiring of an employee with status who has been laid off;

(29)[~~(25)~~] "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;

(30)[~~(26)~~] "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;

(31)[~~(27)~~] "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;

[~~(28) "Seasonal employee" means an employee appointed to a seasonal position;~~

~~(29) "Seasonal position" means a position that is temporary, coincides with a particular season or seasons of the year, and does not exceed eleven (11) months' duration;~~]

(32)[~~(30)~~] "Seniority" means the total number of months of state service;

(33)[~~(31)~~] "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service;

[~~(32) "Temporary employee" means an employee appointed to a temporary position;~~

~~(33) "Temporary position" means a position that is created for a definite period of time not to exceed six (6) months and not renewable;~~]

(34) "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

Section 2. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall promulgate comprehensive administrative regulations for the classified service governing:

   (a) Applications and examinations;

   (b) Certification and selection of eligibles;

   (c) Classification and compensation plans;

   (d) Incentive programs;

   (e) Layoffs;

   (f) Registers;

   (g) Types of appointments;

   (h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985.

(2) The commissioner shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the commissioner shall not promulgate administrative regulations that would reduce an employee's salary; and

   (b) As provided by KRS 18A.0751(4)(e), the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The commissioner may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

   (b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

   (c) No administrative body other than the Department of Personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the commissioner shall submit the administrative regulation to the board for review.

   (a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it;

   (b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner;

   (c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

   (d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

   (a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class;

      1. The commissioner shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The commissioner shall reallocate existing positions, after consultation with

appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

2. The secretary of the Finance and Administration Cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the Finance and Administration Cabinet on the basis of the availability of funds. The Finance and Administration Cabinet shall notify the department of any review and approval conducted under the provisions of this section;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the secretary of the Finance and Administration Cabinet. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly ***and applications accepted*** at least ***ten (10)***[~~fifteen (15)~~] days ***prior to certification of a register***[~~in advance of the date fixed for the filing of applications therefor~~], and may be advertised through the press, radio, and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the commissioner for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g)[~~For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;~~

~~(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;~~

~~(i)~~] For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h)[~~(j)~~] For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i)[~~(k)~~] For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility ***without written examination***; and

(j)[~~(l)~~] For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 3. KRS 18A.113 is amended to read as follows:

(1) It shall be unlawful to coerce employees who may be or who are subject to layoff to resign or retire in lieu of layoff.

Dismissals shall comply with statutes relating thereto, and layoffs shall not be utilized as a method of dismissal.

(2) In the same cabinet, county and job classification, ***interim***~~[provisional, temporary, emergency, federally funded time-limited,]~~ and probationary employees shall be laid off before ~~[permanent]~~ full-time or ~~[permanent]~~ part-time employees with status. For purposes of layoff, "probationary employee" does not include an employee with status serving a promotional probation. A cabinet shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a lay-off plan submitted to the commissioner have the same qualifications, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment register for the class of position from which he was laid off and for any class for which he is qualified. He shall have the right to test for any class of position for which he is qualified to take an examination. If he passes the examination, he shall be placed on the register for the class.

(5) For a period of five (5) years, laid-off employees shall be hired before any applicant or eligible except another laid-off employee with greater seniority who is already on such register.

(6) For a period of five (5) years, a laid-off employee shall not be removed from any register unless:

(a) He notifies the department in writing that he no longer desires consideration for a position on such register;

(b) He declines two (2) written offers of appointment to a position of the same classification and salary, and located in the same county, as the position from which he was laid off;

(c) Without good cause, he fails to report for an interview after he has been notified in writing at least ten (10) calendar days prior to the date of the interview;

(d) He is unqualified for appointment;

(e) He is unable to perform the duties of the class;

(f) He has made a false statement of a material fact in his application;

(g) He has used or attempted to use political influence or bribery to secure an advantage in connection with his placement on the register;

(h) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;

(i) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

(j) He cannot be located by postal authorities at the last address provided by him; or

(k) He has otherwise willfully violated the provisions of this chapter.

(7) When the department is notified by an appointing authority that a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same as or less than that of the class to which he has been appointed.

(8) When a laid-off employee is removed from a register he shall be notified in writing and shall be notified of his right to appeal to the board under the provisions of KRS 18A.095.

Section 4. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) ***Interim***[~~Seasonal, temporary, and emergency~~] employees;

(q)[~~ Federally funded time-limited employees;~~

~~(r)~~] Officers and members of the state militia;

(r)[~~(s)~~] State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s)[~~(t)~~] University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t)[~~(u)~~] Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u)[~~(v)~~] Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v)[~~(w)~~] County and Commonwealth's attorneys and their respective appointees;

(w)[~~(x)~~] Chief district engineers and the state highway engineer;

(x)[~~(y)~~] Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(y)[~~(z)~~] Employees of the Kentucky Peace Corps; and

(z)[~~(aa)~~] Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS

Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 5. KRS 18A.155 is amended to read as follows:

(1) The commissioner shall prepare and submit proposed administrative regulations to the Governor for employees in unclassified positions enumerated in paragraphs (g), (h), (i), (j), (k), (p), ***(t), and*** (u),[~~ and (v)~~] of subsection (1) of KRS 18A.115. Such administrative regulations shall become effective after approval by the Governor and promulgation in accordance with KRS Chapters 12 and 13A. The administrative regulations shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the Governor, the commissioner shall allocate the positions of every employee in the unclassified service to one (1) of the classes of the plan. Any employee affected by the allocation of a position to a class shall, after filing with the commissioner a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(b) For a pay plan for all aforementioned employees in the unclassified service, after consultation with appointing authorities and the secretary of Finance and Administration, and taking into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;
2. Rates paid for comparable positions elsewhere; and
3. The state's financial resources.

Such pay plan shall become effective only after it has been approved by the Governor after submission to him by the commissioner through the secretary of Finance and Administration. Amendments to the pay plan may be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided in subsection (1) of this section;

(e) For the development and operation of programs to improve the work effectiveness and morale of employees in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employee relations; and

(f) For such other rules and administrative regulations, not inconsistent with KRS 18A.005 to 18A.200, as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of administrative regulations promulgated under this section on behalf of employees enumerated in paragraphs (a), (b), (d), (e)***, (p), (u),*** and ***(w)***[~~(q)~~] of subsection (1) of KRS 18A.115 and on behalf of members of state boards and commissions who work on a full-time, salaried basis.

Section 6. KRS 36.040 is amended to read as follows:

The adjutant general shall:

(1) Represent the Governor in all military matters pertaining to the Commonwealth of Kentucky;

(2) Be the executive head of the Department of Military Affairs and exercise all functions vested by law in the department;

(3) Be responsible to the Governor for the proper carrying into effect of all laws, rules, and regulations of the United States and of this state affecting the militia and other military organizations established by law;

(4) Perform the duties prescribed for him by laws of the United States and regulations issued thereunder;

(5) Direct and supervise the chiefs of staff departments and supervise all troops and all departments, arms, and branches of the Kentucky Army and Air National Guard;

(6) Supervise the preparation of all returns and reports of the Department of Military Affairs;

(7) Keep a register of all the officers of the Kentucky National Guard, and make a written report to the Governor for the annual period ending on June 30 of each year of the operations and conditions of the Department of Military Affairs;

(8) Cause to be prepared and issued all necessary blank books, forms, and notices required to carry into full effect matters assigned to the adjutant general under the provisions of KRS Chapters 36, 37, and 38;

(9) Direct and supervise the safekeeping and repairing of the ordnance, arms, accouterments, equipment, and all other military property belonging to the state or issued to it by the United States;

(10) Notify the Finance and Administration Cabinet of all military property of the state which after inspection is found unsuitable for use of the cabinet;

(11) Keep an account of:

  (a) All expenses, including pay of officers and enlisted men, allowance to officers and organizations;

  (b) Any other moneys required to be disbursed by him and through his office, including subsistence and transportation of the National Guard; and

  (c) All military property of the United States.

(12) Issue and make requisitions for military property under the direction of the Governor, but no military property shall be issued to persons or organizations other than those belonging to the National Guard, except to such portion of the Kentucky active militia as is called out by the Governor;

(13) Maintain as a part of his office a Bureau of War Records in which all records pertaining to wars and relics shall be kept, and be custodian of all such records, relics, colors, standards, and battle flags now the property of the state, or in its possession, or which the state may hereafter acquire;

(14) Organize units of the National Guard at places designated by the Governor and have the members mustered into service under regulations prescribed by the Governor;

(15) Issue all regulations, orders, and directives for the proper functioning and utilization of the Department of Military Affairs and its divisions***; and***

(16) Hire, discharge, and pay any personnel that the adjutant general deems necessary to fulfill defense contracts without regard to KRS Chapter 18A.

Section 7. In order to provide for the orderly implementation of Sections 1 to 5 of this Act:

(1) Seasonal and temporary positions in effect as of July 1, 1998 shall expire upon their normal expiration date;

(2) Federally funded time limited positions in effect as of July 1, 1998 shall expire upon the conclusion of the grant in effect at that time, or the conclusion of the project, whichever occurs first; and

(3) Employees with status serving in part-time positions of one hundred (100) hours or more per month as of February 1, 1998, shall be converted to full-time status.

The Committee Substitute to **HB 727** is as follows:

AN ACT relating to state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the commissioner;

(2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;

(3) "Board" means the Personnel Board created by KRS 18A.045;

(4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;

(5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the commissioner on request of an appointing officer for consideration in filling a position in the classified service;

(6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(7) ***"Classified employee" means an employee appointed to a position in the classified service whose appointment and continued employment are subject to the classified service provisions of this chapter;***

(8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;

(9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

(10)[~~(8)~~] "Commissioner" means the commissioner of the Department of Personnel as provided for in KRS 18A.015;

(11)[~~(9)~~] "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;

(12)[~~(10)~~] "Department" means the Department of Personnel provided for in KRS 18A.015, unless the context indicates otherwise;

(13)[~~(11)~~] "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;

[~~(12) "Emergency employee" means an employee appointed without regard to the examination requirements of KRS 18A.010 to 18A.200 to any position by reason of a governmental emergency. An emergency appointment shall not exceed thirty (30) working days in duration and is nonrenewable;~~]

(14)[~~(13)~~] "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time***,*** [~~or~~] part-time***, or interim*** basis;

(15) "Full-time employee" means an employee in a full-time position;

(16)[~~(14)~~] ***"Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:***

- ***(a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and***
- ***(b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time***[~~Federally funded time limited employee" means an employee appointed to a federally funded time limited position and, except as provided in KRS 18A.115, may in all other respects be entitled to the benefits provided permanent, full time regular employees as defined in this chapter~~];

[~~(15) "Federally funded time limited position" means a position created for the specific purpose of providing public service employment or one (1) time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;~~]

(17)[~~(16)~~] "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence. "Initial probation" does not include a probationary period served by a laid-off employee who accepts a bona fide written offer of appointment;

(18) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;

(19) "Interim position" means a position established to address a one time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;

(20) "Part-time employee" means an employee in a part-time position;

(21) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;

(22)[~~(17)~~] "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employees;

(23)[~~(18)~~] "Position" means an office or employment in an agency (whether part-time, full-time,[~~ permanent, temporary, seasonal, federally funded time limited,~~] or ***interim***[~~emergency~~], occupied, or vacant) involving duties requiring the services of one (1) person;

(24)[~~(19)~~] "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;

(25)[~~(20)~~] "Promotional probation" means the [~~six (6) month~~] period of service***, consistent with the length of the initial probationary period,*** following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;

[~~(21) "Provisional employee" means any employee appointed on a temporary or interim basis to a permanent position under KRS 18A.010 to 18A.200 without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18A.110(7)(h);~~]

(26)[~~(22)~~] "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;

(27)[~~(23)~~] "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;

(28)[~~(24)~~] "Reemployment" shall mean the rehiring of an employee with status who has been laid off;

(29)[~~(25)~~] "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;

(30)[~~(26)~~] "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;

(31)[~~(27)~~] "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;

[~~(28) "Seasonal employee" means an employee appointed to a seasonal position;~~

~~(29) "Seasonal position" means a position that is temporary, coincides with a particular season or seasons of the year, and does not exceed eleven (11) months' duration;~~]

(32)[~~(30)~~] "Seniority" means the total number of months of state service;

(33)[~~(31)~~] "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service;

[~~(32) "Temporary employee" means an employee appointed to a temporary position;~~

~~(33) "Temporary position" means a position that is created for a definite period of time not to exceed six (6) months and not renewable.~~]

(34) "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

Section 2. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985.

(2) The commissioner shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the commissioner shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The commissioner may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Department of Personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the commissioner shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner;

(c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class;

1. The commissioner shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The commissioner shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

2. The secretary of the Finance and Administration Cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the Finance and Administration Cabinet on the basis of the availability of funds. The Finance and Administration Cabinet shall notify the department of any review and approval conducted under the provisions of this section;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the secretary of the Finance and Administration Cabinet. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and

3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly ***and applications accepted*** at least ***ten (10)***[~~fifteen (15)~~] days ***prior to certification of a register***[~~in advance of the date fixed for the filing of applications therefor~~], and may be advertised through the press, radio, and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the commissioner for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g)[~~For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;~~

~~(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;~~

~~(i)~~] For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h)[~~(j)~~] For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i)[~~(k)~~] For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility ***without written examination***; and

(j)[~~(l)~~] For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 3. KRS 18A.113 is amended to read as follows:

(1) It shall be unlawful to coerce employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with statutes relating thereto, and layoffs shall not be utilized as a method of dismissal.

(2) In the same cabinet, county and job classification, ***interim***[~~provisional, temporary, emergency, federally funded time-limited,~~] and probationary employees shall be laid off before [~~permanent~~] full-time or [~~permanent~~] part-time employees with status. For purposes of layoff, "probationary employee" does not include an employee with status serving a promotional probation. A cabinet shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a lay-off plan submitted to the commissioner have the same qualifications, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment register for the class of position from which he was laid off and for any class for which he is qualified. He shall have the right to test for any class of position for which he is qualified to take an examination. If he passes the examination, he shall be placed on the register for the class.

(5) For a period of five (5) years, laid-off employees shall be hired before any applicant or eligible except another laid-off employee with greater seniority who is already on such register.

(6) For a period of five (5) years, a laid-off employee shall not be removed from any register unless:

(a) He notifies the department in writing that he no longer desires consideration for a position on such register;

(b) He declines two (2) written offers of appointment to a position of the same classification and salary, and located in the same county, as the position from which he was laid off;

(c) Without good cause, he fails to report for an interview after he has been notified in writing at least ten (10) calendar days prior to the date of the interview;

(d) He is unqualified for appointment;

(e) He is unable to perform the duties of the class;

(f) He has made a false statement of a material fact in his application;

(g) He has used or attempted to use political influence or bribery to secure an advantage in connection with his placement on the register;

(h) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;

(i) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

(j) He cannot be located by postal authorities at the last address provided by him; or

(k) He has otherwise willfully violated the provisions of this chapter.

(7) When the department is notified by an appointing authority that a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same as or less than that of the class to which he has been appointed.

(8) When a laid-off employee is removed from a register he shall be notified in writing and shall be notified of his right to

appeal to the board under the provisions of KRS 18A.095.

Section 4. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) ***Interim***[~~Seasonal, temporary, and emergency~~] employees;

(q)[~~ Federally funded time-limited employees;~~

~~(r)~~] Officers and members of the state militia;

(r)[~~(s)~~] State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s)[~~(t)~~] University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t)[~~(u)~~] Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u)[~~(v)~~] Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v)[~~(w)~~] County and Commonwealth's attorneys and their respective appointees;

(w)[~~(x)~~] Chief district engineers and the state highway engineer;

(x)[~~(y)~~]Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing

Commission;

(y)[~~(z)~~] Employees of the Kentucky Peace Corps; and

(z)[~~(aa)~~] Employees of the Council on Postsecondary Education.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 5. KRS 18A.155 is amended to read as follows:

(1) The commissioner shall prepare and submit proposed administrative regulations to the Governor for employees in unclassified positions enumerated in paragraphs (g), (h), (i), (j), (k), (p), ***(t), and*** (u),[~~ and (v)~~] of subsection (1) of KRS 18A.115. Such administrative regulations shall become effective after approval by the Governor and promulgation in accordance with KRS Chapters 12 and 13A. The administrative regulations shall provide:

  (a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the Governor, the commissioner shall allocate the positions of every employee in the unclassified service to one (1) of the classes of the plan. Any employee affected by the allocation of a position to a class shall, after filing with the commissioner a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

  (b) For a pay plan for all aforementioned employees in the unclassified service, after consultation with appointing authorities and the secretary of Finance and Administration, and taking into account such factors as:

    1. The relative levels of duties and responsibilities of various classes of positions;
    2. Rates paid for comparable positions elsewhere; and
    3. The state's financial resources.

Such pay plan shall become effective only after it has been approved by the Governor after submission to him by the commissioner through the secretary of Finance and Administration. Amendments to the pay plan may be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

  (c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

  (d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided in subsection (1) of this section;

  (e) For the development and operation of programs to improve the work effectiveness and morale of employees in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employee relations; and

  (f) For such other rules and administrative regulations, not inconsistent with KRS 18A.005 to 18A.200, as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of administrative regulations promulgated under this section on behalf of employees enumerated in paragraphs (a), (b), (d), (e)***, (p), (u),*** and ***(w)***[~~(q)~~] of subsection (1) of KRS

18A.115 and on behalf of members of state boards and commissions who work on a full-time, salaried basis.

Section 6. KRS 36.040 is amended to read as follows:

The adjutant general shall:

(1) Represent the Governor in all military matters pertaining to the Commonwealth of Kentucky;

(2) Be the executive head of the Department of Military Affairs and exercise all functions vested by law in the department;

(3) Be responsible to the Governor for the proper carrying into effect of all laws, rules, and regulations of the United States and of this state affecting the militia and other military organizations established by law;

(4) Perform the duties prescribed for him by laws of the United States and regulations issued thereunder;

(5) Direct and supervise the chiefs of staff departments and supervise all troops and all departments, arms, and branches of the Kentucky Army and Air National Guard;

(6) Supervise the preparation of all returns and reports of the Department of Military Affairs;

(7) Keep a register of all the officers of the Kentucky National Guard, and make a written report to the Governor for the annual period ending on June 30 of each year of the operations and conditions of the Department of Military Affairs;

(8) Cause to be prepared and issued all necessary blank books, forms, and notices required to carry into full effect matters assigned to the adjutant general under the provisions of KRS Chapters 36, 37, and 38;

(9) Direct and supervise the safekeeping and repairing of the ordnance, arms, accouterments, equipment, and all other military property belonging to the state or issued to it by the United States;

(10) Notify the Finance and Administration Cabinet of all military property of the state which after inspection is found unsuitable for use of the cabinet;

(11) Keep an account of:

(a) All expenses, including pay of officers and enlisted men, allowance to officers and organizations;

(b) Any other moneys required to be disbursed by him and through his office, including subsistence and transportation of the National Guard; and

(c) All military property of the United States.

(12) Issue and make requisitions for military property under the direction of the Governor, but no military property shall be issued to persons or organizations other than those belonging to the National Guard, except to such portion of the Kentucky active militia as is called out by the Governor;

(13) Maintain as a part of his office a Bureau of War Records in which all records pertaining to wars and relics shall be kept, and be custodian of all such records, relics, colors, standards, and battle flags now the property of the state, or in its possession, or which the state may hereafter acquire;

(14) Organize units of the National Guard at places designated by the Governor and have the members mustered into service under regulations prescribed by the Governor;

(15) Issue all regulations, orders, and directives for the proper functioning and utilization of the Department of Military Affairs and its divisions***; and***

(16) Hire, discharge, and pay any personnel that the adjutant general deems necessary to fulfill defense contracts without regard to KRS Chapter 18A.

Section 7. In order to provide for the orderly implementation of Sections 1 to 5 of this Act:

(1) Seasonal and temporary positions in effect as of July 1, 1998 shall expire upon their normal expiration date;

(2) Federally funded time limited positions in effect as of July 1, 1998 shall expire upon the conclusion of the grant in effect at that time, or the conclusion of the project, whichever occurs first; and

(3) Employees with status serving in part-time positions of one hundred (100) hours or more per month as of February 1, 1998, shall be converted to full-time status.

HB 732, AN ACT relating to the Kentucky Personnel Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13B.050 is amended to read as follows:

(1) In any administrative hearing, the agency shall conduct the hearing as soon as practicable and shall give notice of the hearing to the parties not less than twenty (20) days in advance of the date set for the hearing, unless otherwise required by federal law. An agency shall make reasonable effort to schedule a hearing on a date that is convenient to the parties involved.

(2) The notice required by subsection (1) of this section shall be served on the parties by certified mail, return receipt

requested, sent to the last known address of the parties, or by personal service***, with the exception of notices of Personnel Board hearings and all board orders which may be served by first-class mail***. Service by ***certified*** mail shall be complete upon the date on which the agency receives the return receipt or the returned notice.

(3) The notice required by this section shall be in plain language and shall include:

(a) A statement of the date, time, place, and nature of the hearing;

(b) The name, official title, and mailing address of the hearing officer;

(c) The names, official titles, mailing addresses, and, if available, telephone numbers of all parties to the hearing, including the counsel or representative of the agency;

(d) A statement of the factual basis for the agency action along with a statement of issues involved, in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument;

(e) A reference to the specific statutes and administrative regulations which relate to the issues involved and the procedure to be followed in the hearing;

(f) A statement advising the person of his right to legal counsel;

(g) A statement of the parties' right to examine, at least five (5) days prior to the hearing, a list of witnesses the parties expect to call at the hearing, any evidence to be used at the hearing and any exculpatory information in the agency's possession; and

(h) A statement advising that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default under this chapter.

(4) If an agency decides not to conduct an administrative hearing in response to a petition, the agency shall notify the petitioner of its decision in writing, with a brief statement of the agency's reasons and any administrative review available to the petitioner.

Section 2. KRS 18A.095 is amended to read as follows:

(1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of KRS 281.770.

(b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of KRS 281.771 and 281.772.

(2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time, and place of such action or activity; and

4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(4) The department shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.

(7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the

employee shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for this action, including:

  1. The statutory or regulatory violation;
  2. The specific action or activity on which the dismissal or other penalization is based;
  3. The date, time, and place of the action or activity; and
  4. The name of the parties involved;

(c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.

(9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension, or other penalization;

(b) The effective date of the demotion, suspension, or other penalization;

(c) The specific reason for the action including:

  1. The statutory or regulatory violation;
  2. The specific action or activity on which the demotion, suspension, or other penalization is based;
  3. The date, time, and place of the action or activity; and
  4. The name of the parties involved; and

(d) That he has the right to appeal to the board within sixty (60) days, excluding the day that he received notification.

(10) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(11) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:

  1. The reallocation; and
  2. His right to request reconsideration by the commissioner within ten (10) working days of receipt of the notice, excluding the day he receives notification;

(b) He shall be provided with a form prescribed by the commissioner on which to request reconsideration; and

(c) The employee shall file a written request for reconsideration of the reallocation of his position with the commissioner in a manner and form prescribed by the commissioner and shall be given a reasonable opportunity to be heard thereon by the commissioner. The commissioner shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the commissioner, the employee may appeal to the board.

(12) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(13) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(14) When an eligible's name is removed from a register, the commissioner shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the commissioner or in accordance with the decision of the board:

(15) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the commissioner pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(16) An evaluation may be appealed to the board if an employee has complied with the review procedure established under KRS 18A.112.

(17) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The department shall be responsible for the distribution of these forms;

(b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;

(c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the Department of Personnel shall be notified and the board shall schedule a hearing.

(18) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

(19) (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;

(b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

(20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(21) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(22) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

(23) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;

(d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

(24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to

the hearing before the board.

(25) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

(26) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(27) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

(28) For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

(29) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

HB 768, AN ACT relating to the Kentucky lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) The right of any person to receive payments due under a prize that is paid in installments over time by the Kentucky Lottery Corporation may be voluntarily assigned, in whole or in part, if the assignment is made to a person or entity designated pursuant to an order of the District Court located in the judicial district where the assigning winner resides, or where the Kentucky Lottery Corporation's headquarters is located. The District Court shall issue an order approving a voluntary assignment and directing the Kentucky Lottery Corporation to direct prize payments in whole or in part to the assignee, if and only if all of the following conditions have been met:

(a) The assignment is in writing, executed by the assignor, and by its terms, subject to the laws of the Commonwealth; and

(b) The assignor provides a sworn affidavit attesting that the assigning winner:

1. Is of sound mind, in full command of his or her faculties, and is not acting under duress;

2. Has been advised regarding the assignment by his or her own independent legal counsel and has had the opportunity to receive independent financial and tax advice concerning the effects of the assignment;

3. Understands that he or she will not receive the prize payments, or portions thereof, for the years assigned;

4. Understands and agrees that with regard to the assigned payments, the Commonwealth, the Kentucky Lottery Corporation, and its respective officials and employees will have no further liability or responsibility to make the assigned payments to the assignor.

5. Has been provided with a one (1) page written disclosure statement in bold type, fourteen (14) points or larger, setting forth:

a. The payments being assigned, by amounts and payment dates;

b. The purchase price being paid;

c. The rate of discount to present value, assuming daily compounding and funding on the contract date; and

d. The amount, if any, of any origination or closing fees that will be charged to the lottery winner; and

6. Was advised in writing at the time he or she signed the assignment contract, that he or she had the right to cancel the contract without any further obligation within three (3) business days following the date on which the contract was signed.

(2) A voluntary assignment may not include or cover payments or portions of payments that are subject to offset on account of a defaulted or delinquent child support obligation, unless appropriate provision is made in the court order to satisfy the obligations giving rise to the offset.

(3) The Commonwealth of Kentucky, the Kentucky Lottery Corporation, and their respective officials and employees shall be discharged of all further liability upon payment of a prize pursuant to this section;

(4) The Kentucky Lottery Corporation may establish a reasonable fee to defray any administrative expenses associated with assignments made pursuant to this section, including the cost to the Commonwealth or the Kentucky Lottery Corporation of any processing fee that may be imposed by a private annuity provider. The fee amount shall reflect the direct and indirect costs associated with processing the assignments.

Section 2. KRS 154A.110 is amended to read as follows:

(1) Proceeds of lottery prizes shall be subject to Kentucky state income tax. Any attachments, garnishments, or executions authorized and issued pursuant to statute shall also be withheld if served upon the process agent of the corporation. This section shall not apply to a retailer.

(2) The board shall adopt rules to establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes, except that:

(a) ~~[No prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable.]~~Any prize, or portion thereof, remaining unpaid at the death of a prize winner shall be paid to the estate of such deceased prize winner or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled.

(b) No ticket shall knowingly be sold to any person under the age of eighteen (18), but this section does not prohibit the purchase of a ticket by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment to an adult member of the person's family or the legal guardian of the person on behalf of such person. The person named as custodian shall have the same powers and duties as prescribed for a custodian pursuant to the Uniform Transfers to Minors Act.

(c) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.

(d) No particular prize in any lottery game shall be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.

(e) A holder of a winning cash ticket from a Kentucky lottery game shall claim a prize within three hundred sixty five (365) days (for a ticket issued before January 1, 1995), and within one hundred eighty (180) days (for a ticket issued on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the drawing in which the prize was won. In any Kentucky lottery game in which the player may determine instantly if he has won or lost, he shall claim a prize within three hundred sixty five (365) days (for lottery games commenced or tickets printed or reprinted before January 1, 1995), and within one hundred eighty (180) days (for lottery games commenced or tickets printed or reprinted on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game as announced by the corporation. However, a holder of a pull-tab lottery ticket shall claim a prize within the time period and in the manner printed on the ticket. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

(f) No prize shall be paid upon a ticket purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

(3) Any unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions.

(4) The corporation is discharged of all liability upon payment of a prize.

(5) No ticket shall be purchased by and no prize shall be paid to any of the following persons:

(a) Any member of the board of directors, officers, or employees of the corporation;

(b) Any vendors or related entities, or any member of the board of directors, officers, employees of, partners in, or owners of any vendors or related entities to the vendors; or

(c) Any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any such person.

The Committee Substitute to **HB 768** is as follows:

HB 768, AN ACT relating to the Kentucky lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) The right of any person to receive payments due under a prize that is paid in installments over time by the Kentucky Lottery Corporation may be voluntarily assigned, in whole or in part, if the assignment is made to a person or entity designated pursuant to an order of the District Court located in the judicial district where the assigning winner resides, or where the Kentucky Lottery Corporation's headquarters is located. The District Court shall issue an order approving a voluntary assignment and directing the Kentucky Lottery Corporation to direct prize payments in whole or in part to the assignee, if and only if all of the following conditions have been met:

(a) The assignment is in writing, executed by the assignor, and by its terms, subject to the laws of the Commonwealth; and

(b) The assignor provides a sworn affidavit attesting that the assigning winner:

1. Is of sound mind, in full command of his or her faculties, and is not acting under duress;

2. Has been advised regarding the assignment by his or her own independent legal counsel and has had the opportunity to receive independent financial and tax advice concerning the effects of the assignment;

3. Understands that he or she will not receive the prize payments, or portions thereof, for the years assigned;

4. Understands and agrees that with regard to the assigned payments, the Commonwealth, the Kentucky Lottery Corporation, and its respective officials and employees will have no further liability or responsibility to make the assigned payments to the assignor.

5. Has been provided with a one (1) page written disclosure statement in bold type, fourteen (14) points or larger, setting forth:

a. The payments being assigned, by amounts and payment dates;

b. The purchase price being paid;

c. The rate of discount to present value, assuming daily compounding and funding on the contract date; and

d. The amount, if any, of any origination or closing fees that will be charged to the lottery winner;

6. Was advised in writing at the time he or she signed the assignment contract, that he or she had the right to cancel the contract without any further obligation within thirty (30) business days following the date on which the contract was signed; and

7. Has the consent of his or her spouse, or that the prize winner can assign the prize without spousal consent.

(2) A voluntary assignment may not include or cover payments or portions of payments that are subject to offset on account of a defaulted or delinquent child support obligation, unless appropriate provision is made in the court order to satisfy the obligations giving rise to the offset.

(3) The Commonwealth of Kentucky, the Kentucky Lottery Corporation, and their respective officials and employees shall be discharged of all further liability upon payment of a prize pursuant to this section;

(4) The Kentucky Lottery Corporation may establish a reasonable fee to defray any administrative expenses associated with assignments made pursuant to this section, including the cost to the Commonwealth or the Kentucky Lottery Corporation of any processing fee that may be imposed by a private annuity provider. The fee amount shall reflect the direct and indirect costs associated with processing the assignments.

Section 2. KRS 154A.110 is amended to read as follows:

(1) Proceeds of lottery prizes shall be subject to Kentucky state income tax. Any attachments, garnishments, or executions authorized and issued pursuant to statute shall also be withheld if served upon the process agent of the corporation. This section shall not apply to a retailer.

(2) The board shall adopt rules to establish a system of verifying the validity of tickets claimed to win prizes and to effect payment of such prizes, except that:

(a) ~~[No prize, nor any portion of a prize, nor any right of any person to a prize awarded shall be assignable.]~~Any prize, or portion thereof, remaining unpaid at the death of a prize winner shall be paid to the estate of such deceased prize winner or to the trustee under a revocable living trust established by the deceased prize winner as settlor, provided that a copy of such a trust has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following such a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee and each trust beneficiary a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled.

(b) No ticket shall knowingly be sold to any person under the age of eighteen (18), but this section does not prohibit the purchase of a ticket by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment to an adult member of the person's family or the legal guardian of the person on behalf of such person. The person named as custodian shall have the same powers and duties as prescribed for a custodian pursuant to the Uniform Transfers to Minors Act.

(c) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in compliance with such additional specific rules and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.

(d) No particular prize in any lottery game shall be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.

(e) A holder of a winning cash ticket from a Kentucky lottery game shall claim a prize within three hundred sixty five (365) days (for a ticket issued before January 1, 1995), and within one hundred eighty (180) days (for a ticket issued on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the drawing in which the prize was won. In any Kentucky lottery game in which the player may determine instantly if he has won or lost, he shall claim a prize within three hundred sixty five (365) days (for lottery games commenced or tickets printed or reprinted before January 1, 1995), and within one hundred eighty (180) days (for lottery games commenced or tickets printed or reprinted on or after January 1, 1995), or for a multistate lottery game within one hundred eighty (180) days, after the end of the lottery game as announced by the corporation. However, a holder of a pull-tab lottery ticket shall claim a prize within the time period and in the manner printed on the ticket. If a valid claim is not made for a prize within the applicable period, the prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

(f) No prize shall be paid upon a ticket purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of subsection (3) of this section.

(3) Any unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions.

(4) The corporation is discharged of all liability upon payment of a prize.

(5) No ticket shall be purchased by and no prize shall be paid to any of the following persons:

(a) Any member of the board of directors, officers, or employees of the corporation;

(b) Any vendors or related entities, or any member of the board of directors, officers, employees of, partners in, or owners of any vendors or related entities to the vendors; or

(c) Any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of any such person.

HB 789, AN ACT relating to the establishment of the chief information officer for the executive branch of the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) The establishment of the Office of the Chief Information Officer as the Commonwealth's single point of contact and spokesperson for all matters related to information technology and resources, including policies, standard setting, deployment, strategic and tactical planning, acquisition, management, and operations is necessary and in keeping with the industry trends of the private and public sectors;

(2) The appropriate use of information technology by the Commonwealth can improve operational productivity, reduce the cost of government, enhance service to customers, and make government more accessible to the public;

(3) Government-wide planning, investment, protection, and direction for information resources must be enacted to:

(a) Ensure the effective application of information technology on state business operations;

(b) Ensure the quality, security, and integrity of state business operations; and

(c) Provide privacy to the citizens of the Commonwealth;

(4) The Commonwealth must provide information technology infrastructure, technical directions, and a proficient organizational management structure to facilitate the productive application of information technology and resources to accomplish programmatic missions and business goals;

(5) Oversight of large scale and government statewide systems or projects is necessary to protect the Commonwealth's investment and to ensure appropriate integration with existing or planned systems;

(6) A career development plan and professional development program for information technology staff of the executive branch is needed to provide key competencies and adequate on-going support for the information resources of the Commonwealth and to ensure that the information technology staff will be managed as a Commonwealth resource;

(7) The Commonwealth is in need of information technology advisory capacities to the Governor and the agencies of the executive cabinet;

(8) Appropriate public-private partnerships to supplement existing resources must be developed as a strategy for the Commonwealth to comprehensively meet its spectrum of information technology and resource needs; and

(9) The exercise by the chief information officer of powers and authority conferred by Sections 1 to 4 of this Act shall be deemed and held to be the performance of essential governmental functions.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

There is hereby established a position of chief information officer for the Commonwealth. This position shall be exempt from the classified service under KRS 18A.115 and from the salary limitations of KRS 64.640, and shall be bonded commensurate with cabinet secretaries under KRS 62.160. The chief information officer shall be appointed by the Governor and serve in the Governor's Executive Cabinet. The chief information officer shall report to the secretary of the Governor's cabinet concerning his or her responsibilities to provide direction, stewardship, leadership, and general oversight of information technology and information resources. For purposes of this section, unless the context requires otherwise, "information technology" and "information resources" shall have the same meaning as in KRS 61.942.

(1) The chief information officer shall be the principal adviser to the Governor and the executive cabinet on information technology policy, including policy on the acquisition and management of information technology and resources.

(2) The chief information officer shall carry out functions necessary for the efficient, effective, and economical administration of information technology and resources within the executive branch. Roles and duties of the chief information officer shall include but not be limited to:

(a) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;

(b) Assessing, recommending, and implementing information technology governance and organization design to include effective information technology personnel management practices;

(c) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;

(d) Overseeing and managing strategic information technology directions, standards, and architecture;

(e) Integrating information technology and resources plans with agency business plans;

(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;

(g) Overseeing shared Commonwealth information technology resources and services;

(h) Performing as the focal point and representative for the Commonwealth in information technology and related areas with both the public and private sector;

(i) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;

(j) Establishing appropriate partnerships and alliances to support the effective implementation of information technology projects in the Commonwealth;

(k) Identifying information technology applications that should be statewide in scope, and ensuring that these applications are not developed independently or duplicated by individual state agencies of the executive branch;

(l) Establishing performance measurement and benchmarking policies and procedures;

(m) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with Commonwealth's business goals, investment, and other risk management policies. The chief information officer is authorized to grant or withhold approval to initiate these projects;

(n) Preparing annual reports and plans concerning the status and result of the state's specific information technology plans and submitting these annual reports and plans to the governor and the General Assembly;

(o) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth; and

(p) Managing the Office of the Chief Information Officer and its budget.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

The chief information officer shall have the power to make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth.

SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) To assist the chief information officer and to provide necessary support as required to carry out the powers and duties of the chief information officer, the Office of the Chief Information Officer is hereby established and attached for administrative purposes to the Office of the Governor.

(2) The Office of the Chief Information Officer shall have the authority to solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation.

(3) The Office of the Chief Information Officer may solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with Sections 1 to 4 of this Act.

(4) The Office of the Chief Information Officer is hereby designated a state agency for the receipt of federal funds related to information technology.

(5) The Office of the Chief Information Officer may promulgate necessary administrative regulations in accordance with KRS 13A and suggest necessary legislative actions for the furtherance of duties of the office.

Section 5. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    - (a) Secretary of State.
    - (b) Board of Elections.
    - (c) Registry of Election Finance.
4. Department of Law.
    - (a) Attorney General.
5. Department of the Treasury.
    - (a) Treasurer.
6. Department of Agriculture.

    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Medical Examiner Program.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
      (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Office of Development.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.
  3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.
    (c) Department for Environmental Protection.
    (d) Department for Natural Resources.
    (e) Department for Surface Mining Reclamation and Enforcement.
    (f) Office of Legal Services.
    (g) Office of Communications and Community Affairs.
  4. Transportation Cabinet:
    (a) Department of Highways.
    (b) Department of Vehicle Regulation.
    (c) Department of Administrative Services.

(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.

  (e) Department for Administration.
  (f) Department of Facilities Management.
  (g) Department of Information Systems.
  (h) State Property and Buildings Commission.
  (i) Kentucky Pollution Abatement Authority.
  (j) Kentucky Savings Bond Authority.
  (k) Deferred Compensation Systems.
  (l) Office of Equal Employment Opportunity Contract Compliance.
  (m) Capital Plaza Authority.
  (n) County Officials Compensation Board.
  (o) Kentucky Employees Retirement Systems.
  (p) Commonwealth Credit Union.
  (q) State Investment Commission.
  (r) Kentucky Housing Corporation.
  (s) Governmental Services Center.
  (t) Kentucky Local Correctional Facilities Construction Authority.
  (u) Kentucky Turnpike Authority.
  (v) Historic Properties Advisory Commission.

9. Labor Cabinet:
  (a) Department of Workplace Standards.
  (b) Department of Workers' Claims.
  (c) Kentucky Labor-Management Advisory Council.
  (d) Occupational Safety and Health Standards Board.
  (e) Prevailing Wage Review Board.
  (f) Workers' Compensation Board.
  (g) Kentucky Employees Insurance Association.
  (h) Apprenticeship and Training Council.
  (i) State Labor Relations Board.
  (j) Kentucky Occupational Safety and Health Review Commission.
  (k) Office of Administrative Services.
  (l) Office of Labor Management Relations.
  (m) Office of General Counsel.
  (n) Workers' Compensation Funding Commission.
  (o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
  (a) Department of Property Taxation.
  (b) Department of Compliance and Taxpayer Assistance.
  (c) Department of Administrative Services.
  (d) Office of General Counsel.

11. Tourism Cabinet:
  (a) Department of Travel Development.
  (b) Department of Parks.
  (c) Department of Fish and Wildlife Resources.
  (d) Kentucky Horse Park Commission.
  (e) State Fair Board.
  (f) Office of Administrative Services.
  (g) Office of Film Promotion.

(h) Office of General Counsel.
12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.
III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
(a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.
9. Office of the Chief Information Officer.

Section 6. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:
(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department of Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;~~[and]~~
(7) Coal Marketing and Export Council***; and***
(8) Office of the Chief Information Officer.

Section 7. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:
(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;
(c) Members of boards and commissions;
(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the

Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Seasonal, temporary, and emergency employees;

(q) Federally funded time-limited employees;

(r) Officers and members of the state militia;

(s) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and Commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer;

(y) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(z) Employees of the Kentucky Peace Corps;~~[and]~~

(aa) Employees of the Council on Postsecondary Education***; and***

(bb) Chief Information Officer of the Commonwealth.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they

were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 8. KRS 42.029 is amended to read as follows:

(1) There is established a department of state government to be known as the Department of Information Systems. The department shall be a part of the Finance and Administration Cabinet. The Department of Information Systems shall be headed by a commissioner, appointed by the secretary of the Finance and Administration Cabinet, with the approval of the Governor. The commissioner shall be responsible to the secretary.

(2) The secretary of the Finance and Administration Cabinet shall appoint, with the approval of the Governor, a deputy commissioner of the Department of Information Systems, pursuant to KRS 12.050. The commissioner of information systems, with the approval of the secretary of the Finance and Administration Cabinet, may appoint such principal assistants, pursuant to KRS 12.050, as may be necessary for the development and implementation of policy. The commissioner may employ, pursuant to the provisions of KRS Chapter 18A, such personnel as may be necessary to execute the functions and duties of the department.

(3) The Department of Information Systems shall provide[~~ leadership, policy direction, and~~] technical support ***and services*** to all executive agencies of state government in the application of information technology. The department shall:

(a) Assure compatibility[~~, portability,~~] and connectivity of Kentucky's information systems; and

(b) Implement necessary management processes to assure full compliance with the Kentucky information resources architecture as adopted by the Kentucky Information Resources Management Commission.

(4) The Department of Information Systems shall include the following divisions, each of which shall be headed by a director appointed by the secretary with the approval of the Governor, pursuant to KRS 12.050:

(a) The Division of Network Services, which shall be responsible for network planning, network design, network management, systems administration, research and evaluation of desktop and departmental computer technologies, support for end user computing, and information dissemination;

(b) The Division of Computer Services, which shall be responsible for all computer operations, systems programming, technical support services, data storage, and database management services;

(c) The Division of Systems Development, which shall be responsible for providing comprehensive systems analysis, design, and development services, and applications consulting services to designated state agencies with primary responsibility for supporting economic development, education, human services, and public protection systems;

(d) The Division of Systems Engineering, which shall be responsible for providing comprehensive systems analysis, design, and development services and applications consulting services to designated state agencies with primary responsibility for supporting environmental, financial, labor, personnel, revenue, safety, justice, tourism, and transportation systems; and

(e) The Division of Support Services, which shall be responsible for planning and procurement assistance, fiscal administration, service coordination, application development standards, data security, disaster recovery planning, technical training, technical publications, and facilities support.

(f) The secretary of the Finance and Administration Cabinet, in consultation with the commissioner of the Department of Information Systems, shall designate the state agencies to be provided services by the Division of Systems Development and the Division of Systems Engineering based on the complexity of the services to be provided and each division's work load.

(5) The Department of Information Systems may delegate authority to individual state agencies for the performance of departmental and desktop level functions if the commissioner finds the delegation to be in the best interest of the Commonwealth. All delegations of authority shall:

(a) Be in written form;

(b) Specify the level and scope of functions to be performed; and

(c) Provide notice to the agency receiving delegation of authority, that the delegated authority will be revoked if the commissioner finds that the functions being performed fail to adhere to prescribed criteria or if the commissioner finds that it is no longer in the best interest of the Commonwealth to continue the agency's delegation of authority. Nothing in this subsection shall apply to the data processing operations or personnel of the Kentucky Retirement Systems or the Kentucky Teachers' Retirement System.

(6) The Department of Information Systems may provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the commissioner finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan.

(7) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

(8) The department may promulgate necessary administrative regulations for the furtherance of this section.

Section 9. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the "commission." It shall be the responsibility of the commission to coördinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

(a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation or Human Resources Cabinet, appointed by the Governor, or their respective designees;

(b) The state budget director or his designee;

(c) The commissioner of the Department of Information Systems;

(d) The State Librarian or his designee;

(e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;

(f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

(g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

(h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

(i) The executive director of the Kentucky Authority for Educational Television;

(j) The chairman of the Communications Advisory Council as an ex officio[~~, nonvoting~~] member;[~~ and~~]

(k) The chairman of the Geographic Information Advisory Council as an ex officio[~~, nonvoting~~] member***; and***

(l) The Chief Information Officer of the Commonwealth.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

(a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;

2. Violates a prohibition established by subsection (3) of this section; or

3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by

majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsection (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsection (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

HB 853, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.315 is amended to read as follows:

(1) An administrative regulation shall be withdrawn and shall not be reviewed by a legislative subcommittee if:

(a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;

(b) An item is not filed on or before a deadline specified by this chapter; or

(c) The administrative body has failed to comply with the provisions of this chapter governing the filing of administrative regulations, public hearings, and the statement of consideration.

(2) An administrative regulation which has not complied with all the provisions of this chapter and any regulations promulgated under this chapter shall be considered procedurally defective and void.

(3) (a) An administrative regulation that has been found deficient by a subcommittee shall be withdrawn immediately by the promulgating administrative body if, pursuant to Section 2 of this Act, the Governor has determined that it shall be withdrawn.

(b) The promulgating administrative body shall notify the regulations compiler in writing and by telephone that it is withdrawing an administrative regulation governed by the provisions of this subsection.

(c) The written withdrawal of an administrative regulation governed by the provisions of this subsection shall be made in a letter to the regulations compiler in the following format: "Pursuant to KRS 13A.330(2)(b), the Governor has determined that (administrative regulation number and title) shall be (withdrawn, or withdrawn and amended to conform to the finding of deficiency, as applicable). The (name of promulgating administrative body) withdraws (administrative regulation number and title)."

(d) An administrative regulation governed by the provisions of this subsection shall be considered withdrawn upon receipt by the regulations compiler of the written withdrawal.

Section 2. KRS 13A.330 is amended to read as follows:

(1) An administrative regulation that has not been found deficient by a legislative subcommittee shall be considered as adopted and shall become effective:

(a) Upon adjournment on the day a subcommittee meets to consider the administrative regulation pursuant to KRS 13A.290(7) if:

1. The administrative regulation is on the agenda of the subcommittee meeting;

2. A quorum of the subcommittee is present; and

3. The subcommittee:

a. Considers the administrative regulation; or

b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or

(b) If a subcommittee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290(7), or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.

(2) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit to the Governor:

(a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and

(b) A request that the Governor determine whether the administrative regulation shall:

1. Be withdrawn;

2. Be withdrawn and amended to conform to the finding of deficiency; or

3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.

(3) The Governor shall transmit his determination to the Commission and the regulations compiler.

(4) An administrative regulation that has been found deficient by a legislative subcommittee shall be considered as adopted and become effective after:

(a) The subcommittee of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290(6) has:

1. Reviewed the administrative regulation; or

2. Failed to meet within thirty (30) days of such assignment; and

(b) The regulations compiler has received the Governor's determination ***that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency***[~~pursuant to this section~~].

Section 3. KRS 13A.335 is amended to read as follows:

(1) An administrative regulation found deficient by a subcommittee shall not expire if:

(a) A subsequent amendment of that administrative regulation is filed with the Commission by the administrative body;

(b) The subcommittee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects such deficiency; and

(c) Any subcommittee that reviews the administrative regulation under the provisions of KRS Chapter 13A finds that the administrative regulation is not deficient.

(2) An administrative regulation found deficient by the Administrative Regulation Review Subcommittee shall not expire if:

(a) The administrative regulation is amended to correct the deficiency at a meeting of the subcommittee to which it was assigned by the Commission;

(b) That subcommittee does not determine that the administrative regulation is deficient for any other reason; and

(c) The Administrative Regulation Review Subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not expire.

(3) An administrative regulation found deficient by a subcommittee shall not expire if the subcommittee:

(a) Reconsiders the administrative regulation and its finding of deficiency; and

(b) Approves a motion that the administrative regulation is not deficient.

(4) (a) ***If an existing administrative regulation has been amended and found deficient by a subcommittee, it shall not expire if the:***

1. Administrative regulation was found deficient due to the amendment;

2. Promulgating administrative body has withdrawn the proposed amendment of the existing administrative regulation; and

3. Regulations compiler has not received the Governor's determination pursuant to Section 2 of this Act.

(b) If an administrative regulation has been found deficient by a subcommittee, the regulations compiler shall add the following notice to the administrative regulation: "This administrative regulation shall expire on adjournment of the next regular session of the General Assembly." This notice shall be the last section of the administrative regulation.

(c)[~~(b)~~]If an administrative regulation has been found deficient by a subcommittee, subsequent amendments of that administrative regulation filed with the Commission shall contain the notice provided in paragraph (a) of this subsection.

(d)[~~(c)~~]If an administrative regulation that has been found deficient by a subcommittee has been amended and determined not to be deficient under the provisions of this section, the regulations compiler shall delete the notice required by paragraph (a) of this subsection.

HB 887, AN ACT relating to tax administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor. Property valuation administrators shall be state officials and all deputies and assistants of their offices shall be unclassified state employees.

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by Section 100 of the Constitution and by KRS 132.380 and shall be eligible for reelection.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full-time employees shall be eligible for participation in the provisions of KRS 18A.205, 18A.230 to 18A.355, and 61.510 to 61.705.

(4) A property valuation administrator may be removed from office by the Circuit Court of his county, upon petition of any taxpayer, or by the secretary of revenue for any of the following grounds: willful disobedience of any just or legal order of the cabinet, or for misfeasance or malfeasance in office or willful neglect in the discharge of his official duties, including but not limited to intentional underassessment or overassessment of properties and chronic underassessment of properties. For purposes of this section and KRS 134.385, "chronic underassessment" shall mean a widespread pattern and practice of assessing properties at levels substantially below fair market value which persists for a period of two (2) or more years as disclosed by randomly selected sample appraisals conducted under the provisions of KRS 133.250, special audits conducted pursuant to KRS 134.385, or other means.

(5) If the secretary determines that a property valuation administrator should be removed from office, the property valuation administrator shall be notified in writing, and the notice of intent to remove shall state the specific reasons for removal. The notice shall also advise the property valuation administrator of his right to a preremoval conference and an administrative hearing.

(6) A property valuation administrator may request a preremoval conference to appear with or without counsel before the secretary or his designee to answer the charges against him. The preremoval conference shall be requested in writing within six (6) working days of the date on which the notice of intent to remove is received, and a preremoval conference shall be scheduled within seven (7) working days of the date on which the request is received. The secretary or his designee shall render a decision within five (5) working days of the conclusion of the preremoval conference. Failure of a property valuation administrator to request a preremoval hearing shall not waive his right to contest his removal through an administrative hearing.

(7) If an action to remove a property valuation administrator is initiated by the secretary of revenue, the property valuation administrator shall have the right to appeal and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. Appeal of the final order of the secretary of revenue may be filed in a Circuit Court of an adjacent judicial circuit in accordance with KRS Chapter 13B, notwithstanding the provisions of KRS Chapter 18A.

(8) If a property valuation administrator is removed from office as provided in subsections (4) to (7) of this section, he shall be ineligible to serve in the office at any future date and shall forfeit any and all certification from the Revenue Cabinet pertaining to the office.

(9) Notwithstanding the provisions of KRS 18A.110(5)(c), the cabinet shall promulgate an administrative regulation allowing property valuation administrators and their deputies to receive lump sum payments for accrued annual time and compensatory time when separated from employment because of termination by the employer, resignation, retirement, or death.

SB 75, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(c) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service but a member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education or the Higher Education Assistance Authority, may count the vested service toward attaining ***the necessary***[~~thirty (30)~~] years of service credit ***as provided in KRS 61.559(2)(c) and (d)*** to qualify for ***a***[~~an unreduced~~] retirement allowance. The credit from a Kentucky institution of higher education or the Higher Education Assistance Authority shall not be used ***toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or*** to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(c) There shall be no reduction in the retirement allowance of the member who has twenty-six (26) years of service, sixteen (16) of which are current consecutive years of service as a cabinet secretary or administrative head of one (1) of the three (3) branches of government who has retired under the provisions of KRS 61.559(2)(e).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

SB 142, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date, or subsequent thereto, a member may receive an

annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) ***Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account.***

(b) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(c)[~~(b)~~]The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(d)[~~(c)~~]Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(e)[~~(d)~~]The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(f)[~~(e)~~] The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service but a member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education or the Higher Education Assistance Authority, may count the vested service toward attaining thirty (30) years of service credit to qualify for an unreduced retirement allowance. The credit from a Kentucky institution of higher education or the Higher Education Assistance Authority shall not be used to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(c) There shall be no reduction in the retirement allowance of the member who has twenty-six (26) years of service, sixteen (16) of which are current consecutive years of service as a cabinet secretary or administrative head of one

(1) of the three (3) branches of government who has retired under the provisions of KRS 61.559(2)(e).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 2. KRS 61.705 is amended to read as follows:

(1) Upon the death of a retired member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System who had a minimum of forty-eight (48) months of service, a death benefit of *five*[~~two~~] thousand[~~ five hundred~~] dollars *($5,000)*[~~($2,500)~~] shall be paid. Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.

(2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.

The Committee on Appropriations and Revenue reported **HB 320**, with Committee Substitute attached thereto, **HB 321**, with Committee Substitute attached thereto, **HJR 34**, and **HJR 36** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 320** is as follows:

AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, restricted funds accounts, or federal funds accounts for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for the fiscal year beginning July 1, 1999, and ending June 30, 2000, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, Circuit Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, local facilities fund and for services performed by the Circuit Clerk's offices, including both Circuit and District Court support. For column display purposes in this Act, 1999-00 represents fiscal year 1999-2000.

	1998-99	1999-00
1. Court of Justice		
a. Court operations and administration		
General Fund	116,974,600	126,982,400
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
Total	121,986,600	131,866,400

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 1998-99 and in fiscal year 1999-2000 for nonelected court personnel. Included are funds to provide for a five percent (5%) salary adjustment for justices and judges in fiscal year 1998-99 and a five percent (5%) adjustment for the justices and judges in fiscal year 1999-2000. Also included are funds for the salaries of the circuit clerks in fiscal year 1998-99 and fiscal year 1999-2000 as provided for in the judicial branch budget recommendation. Restricted funds of $700,000 in each fiscal year are included for the Jefferson County Court technology improvement system as described in Part II, Capital Projects Budget.

b. Local facilities fund

	1998-99	1999-00

General Fund	27,091,500	32,934,100

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A, and included in the Capital Improvements Plan as provided in KRS Chapter 7A; and to perform all other acts required or authorized by KRS Chapter 26A.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 1997-98 shall not lapse but shall continue into fiscal year 1998-99 and any unexpended balance at the close of fiscal year 1998-99 shall not lapse, but shall be continued into fiscal year 1999-2000.

	1998-99	1999-00
Total Court of Justice		
General Fund	144,066,100	159,916,500
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
Total	149,078,100	164,800,500

2. Judicial Form Retirement System

	1998-99	1999-00
General Fund	6,407,500	6,418,000

General Fund amounts are included to provide for the 1997 actuarial assessed needs of the Judicial Form Retirement System. Included in the above General Fund appropriation is $135,000 in each fiscal year contingent upon passage of enabling legislation related to the judicial retirement plan.

TOTAL - OPERATING BUDGET

	1998-99	1999-00
General Fund	150,473,600	166,334,500
Restricted Funds	4,402,000	4,440,000
Federal Funds	610,000	444,000
TOTAL	155,485,600	171,218,500

PART II

CAPITAL PROJECTS BUDGET

A. Court Facility Use Allowance Contingency Fund

	1998-99	1999-00
General Fund	1,000,000	1,422,500

General Fund amounts are included to provide for cost overruns in court facility projects authorized by the 1996 General Assembly and the 1998 General Assembly not to exceed fifteen percent (15%) of the use allowance. Any overrun, not to exceed fifteen percent (15%), shall be approved by the Court Facilities Standards Committee and reported to the Capital Projects and Bond Oversight Committee. The director of the Administrative Office of the Courts may authorize the transfer of funds to the Court of Justice Operating Budget as required for any authorized cost overruns.

B. Jefferson County Court Technology Improvement System

	1998-99	1999-00
Restricted Funds	700,000	700,000

Restricted Funds are included in the Operating Budget for implementation of the Jefferson County court technology improvement system. Inasmuch as the identification of specific equipment cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes for equipment items which are not individually identified in this Act related to the implementation for the Jefferson County court technology improvement system. Any individual equipment item estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee.

C. Local Facility Projects

Multiyear schedule for the use allowance payments for the capital costs for each local facility project is contained in the Judicial Branch Budget Recommendation.

1.	Bell County - Project Scope	6,393,200
2.	Christian County - Project Scope	9,560,800
3.	Project Pool - Project Scope	16,245,600
4.	Henderson County - Project Scope	8,019,800
5.	Kenton County Phase II - Project Scope	4,515,600

6.	Marshall County - Project Scope	7,383,800
7.	Harrison County - Project Scope	6,152,000
8.	Boone County - Project Scope	7,971,900
9.	Fayette County - Revised Scope	62,500,000
10.	Lyon County - Project Scope	4,758,500
11.	McCreary County - Project Scope	5,183,100
12.	ADA Pool - Project Scope	3,952,200
13.	Harlan County - Project Scope	5,857,400
14.	Lewis County - Project Scope	5,299,700
15.	McLean County - Project Scope	3,752,100
16.	Lincoln County - Revised Scope	2,260,000
17.	Mason County - Revised Scope	4,531,700
18.	Franklin County - Lease Office Space (Millcreek Park)	
19.	Franklin County - Lease Court of Appeals (Democrat Drive)	

For any facility project occupied sooner than anticipated in the multiyear schedule, the use allowance payments shall be approved from the Court Facility Use Allowance Contingency Fund. In the event funds are not available in the Court Facility Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense.

Construction of all court projects shall be in compliance with the standards as set by the National Center for State Courts.

Use allowance, pertaining to the Fayette County Courthouse Project Parking Garage, shall be based on the expanded scope of the garage, totaling $8,500,000 and shall be set at the annual level of $4,000,000, not to exceed an annual use allowance sum of $500,000. Use allowance on the Fayette County Courthouse Project totaling $1,242,000 is deferred to the 2000-2002 fiscal biennium. The expanded project authorization shall not be increased to exceed the authorized project scope of $62,500,000, notwithstanding any legislation enacted during the 1998 Regular Session that would otherwise permit such an increase.

Authorization is granted for the expansion of the Kenton County Courthouse Project from $26,494,000, as authorized by the 1996 General Assembly, to $31,009,600. Corresponding use allowance payments and related operating expenses totaling $696,000 shall be deferred to the next biennium.

Authorization is granted to expand the project scope of the Lincoln County Courthouse Project to $2,260,000. The expanded project authorization shall not exceed $2,260,000, notwithstanding any legislation enacted during the 1998 Regular Session that would otherwise permit such an increase.

New courthouse projects are authorized in Bell, Christian, Henderson, Harrison, McCreary, Marshall, Lyon, Boone, Harlan, Lewis, and McLean Counties, as well as, a project pool consisting of new or renovation projects in Allen, Bourbon, Casey, Hickman, Menifee, and Webster Counties. General Fund support to provide use allowance payments and related operating expense is deferred to the 2000-2002 fiscal biennium on these projects, with the exceptions of: (a) Henderson County Courthouse Project, for which use allowance/net funding requirements are provided based on a June 1, 2000 occupancy date, totaling $491,000 in fiscal year 2000; and (b) Mason County Courthouse Project, which shall be funded from the Current Services budget in the Local Facilities Fund totaling, $131,000 in fiscal year 1999-2000.

The unexpended balance in the Contingency Fund at the end of fiscal year 1998-99 shall not lapse and shall be continued into fiscal year 1999-2000. If the use allowance on project cost over-runs exceeds available funds in the Contingency Fund, additional use allowance funding requirements shall become a necessary governmental expense.

TOTAL - CAPITAL PROJECTS BUDGET

	1998-99	1999-00
General Fund	1,000,000	1,422,500
Restricted Funds	700,000	700,000
TOTAL	1,700,000	2,122,500

TOTALS - JUDICIAL BRANCH BUDGET

	1998-99	1999-00
General Fund	151,473,600	167,757,000
Restricted Funds	5,102,000	5,140,000
Federal Funds	610,000	444,000
TOTAL FUNDS	157,185,600	173,341,000

PART III

GENERAL PROVISIONS

1. The director of the Administrative Office of the Courts with the approval of the Chief Justice may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose which the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriation contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 1998 General Assembly which constitute a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's restricted funds accounts or federal accounts at the close of the fiscal years ending June 30, 1998, and June 30, 1999, shall not lapse but shall continue into the next fiscal year.

7. Proposed revisions to restricted and federal funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The director of the Administrative Office of the Courts shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

8. The Chief Justice shall cause the director of the Administrative Office of the Courts to prepare a final budget document reflecting the 1998-2000 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within sixty (60) days of the adjournment of the 1998 Regular Session of the General Assembly.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

The Committee Substitute to **HB 321** is as follows:

AN ACT relating to appropriations providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Road Fund, restricted funds accounts, or federal funds accounts for the fiscal year ending June 30, 1998, and for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and for the fiscal year beginning July 1, 1999, and ending June 30, 2000, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act. For column display purposes in this Act, 1999-00 represents fiscal year 1999-2000.

A. GOVERNMENT OPERATIONS

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

   a. Office of the Governor

	1998-99	1999-00

General Fund	9,189,500	9,540,000
Restricted Funds	400,000	400,000
Total	9,589,500	9,940,000

Included in the above General Fund appropriation in each year of the biennium is $18,000 for the Governor's expense allowance and $10,000 for the Lieutenant Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky and the position of Lieutenant Governor as specified in KRS 64.710.

b. Governor's Office for Policy and Management

	1998-99	1999-00
General Fund	2,820,500	3,058,000
Restricted Funds	40,000	40,000
Total	2,860,500	3,098,000

c. State Planning Fund

	1998-99	1999-00
General Fund	500,000	500,000

The Governor is authorized to expend funds for the improvement and advancement of governmental purposes and activities. Included in the above General Fund appropriation is a $25,000 grant in each fiscal year to be awarded to the Bluegrass State Games to assist with planning and production of the games.

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	1998-99	1999-00
General Fund	12,510,000	13,098,000
Restricted Funds	440,000	440,000
TOTAL	12,950,000	13,538,000

2. SECRETARY OF STATE

	1998-99	1999-00
General Fund	2,254,300	2,354,300
Restricted Funds	142,500	145,500
Total	2,396,800	2,499,800

3. BOARD OF ELECTIONS

	1998-99	1999-00
General Fund	4,099,800	4,172,100
Restricted Funds	40,000	40,000
Total	4,139,800	4,212,100

Included in the above General Fund appropriation is $2,801,500 in fiscal year 1998-1999 and $2,835,000 in fiscal year 1999-2000 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145 and KRS 117.343). Any unexpended balance remaining at the close of each fiscal year shall lapse to the credit of the General Fund Surplus Account. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145 and KRS 117.343 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Special elections and additional precincts due to redistricting shall be deemed necessary governmental expenses and be paid from the General Fund Surplus Account (KRS 48.700).

4. TREASURY

	1998-99	1999-00
General Fund	2,228,500	2,285,200
Total	2,228,500	2,285,200

Included in the General Fund appropriation above is a Restricted Funds source replacement of $166,500 in fiscal year 1998-99 and $166,500 in fiscal year 1999-2000 for discontinued annual funding for services performed for the Cabinet for Families and Children by the Treasury Department.

5. ATTORNEY GENERAL

	1997-98	1998-99	1999-00
General Fund		12,236,500	12,710,200

Restricted Funds		5,976,500	6,256,500
Federal Funds	56,000	1,639,500	1,595,500
Total	56,000	19,852,500	20,562,200

Included in the above General Fund appropriation is $200,000 in fiscal year 1998-99 and $200,000 in fiscal year 1999-2000 for the Victim Witness Protection Program. Notwithstanding KRS 45.229, any funds appropriated for the Victim Witness Protection Program in fiscal year 1998-99 shall not lapse and shall be carried forward into fiscal year 1999-2000.

6. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorneys

	1997-98	1998-99	1999-00
General Fund		19,055,000	20,092,400
Restricted Funds	22,500	130,000	150,000
Federal Funds	3,000	634,000	667,500
Total	25,500	19,819,000	20,909,900

Included in the above General Fund appropriation is $267,600 in fiscal year 1998-99 and $354,700 in fiscal year 1999-2000 to allow part-time Commonwealth's Attorneys to become full-time. Notwithstanding KRS 45.229, any unexpended balance of funds provided for part-time Commonwealth's Attorneys to become full-time totaling $267,600 at the end of fiscal year 1998-99 may provide for staff positions for the Prosecutorial Advisory Council subject to the interim appropriation revision process in KRS 48.630.

Included in the above General Fund appropriation is $247,500 in fiscal year 1998-99 and $330,000 in fiscal year 1999-2000 for 15 additional victims advocates.

b. County Attorneys

	1997-98	1998-99	1999-00
General Fund		17,409,200	18,329,000
Restricted Funds	30,200	35,000	35,000
Federal Funds	55,000	163,500	172,500
Total	85,200	17,607,700	18,536,500

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	1997-98	1998-99	1999-00
General Fund		36,464,200	38,421,400
Restricted Funds	52,700	165,000	185,000
Federal Funds	58,000	797,500	840,000
TOTAL	110,700	37,426,700	39,446,400

7. AUDITOR OF PUBLIC ACCOUNTS

	1998-99	1999-00
General Fund	5,315,800	5,549,400
Restricted Funds	3,783,500	3,978,500
Total	9,099,300	9,527,900

Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

8. AGRICULTURE

	1998-99	1999-00
General Fund	23,979,100	19,575,000
Restricted Funds	2,357,500	2,403,000
Federal Funds	1,894,100	1,898,000
Total	28,230,700	23,876,000

Included in the above General Fund appropriation is $456,000 in each fiscal year for Murray State University and $370,000 in each fiscal year for the University of Kentucky for the diagnostic laboratories at each institution.

Included in the above General Fund appropriation is $800,000 in each fiscal year for regional university agriculture programs, to be equally distributed among the four universities.

Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic

Development joint trade office in Mexico. Notwithstanding KRS 45.229, any unexpended funds for the Mexico Trade Office shall be continued into the succeeding fiscal year, and the Cabinet for Economic Development shall assist in seeking and obtaining matching funds for the joint office.

Included in the above General Fund appropriation is $500,000 in each fiscal year for the Youth Tobacco Enforcement Program pursuant to KRS 438.330 and KRS 438.335. The Alcohol Beverage Control agency shall jointly participate in the program's enforcement.

Included in the above General Fund appropriation is $5,641,500 for fiscal year 1998-99 and $916,500 for fiscal year 1999-2000 for the new Agricultural Marketing Initiative. Notwithstanding KRS 45.229, any unexpended portion of $5,641,500 in fiscal year 1998-99 shall be continued into the succeeding fiscal year.

Included in the above General Fund appropriation is $75,000 in each fiscal year for personnel and operating expenditures necessary to implement the Farm Safety Initiative.

9. MILITARY AFFAIRS

	1998-99	1999-00
General Fund	10,256,500	10,854,300
Restricted Funds	10,333,500	10,699,500
Federal Funds	8,958,500	8,960,000
Total	29,548,500	30,513,800

There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially-declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

Included in the above General Fund appropriation is an additional amount of $200,000 in fiscal year 1998-99 and $300,000 in fiscal year 1999-2000 for Disaster and Emergency Services County Offices.

Also included in the above General Fund appropriation is $175,000 in fiscal year 1999-2000 for debt service for bonds to replace the communications system for the Division of Disaster and Emergency Services.

10. PERSONNEL BOARD

	1998-99	1999-00
General Fund	526,200	544,200
Restricted Funds	5,000	5,000
Total	531,200	549,200

11. LOCAL GOVERNMENT

	1998-99	1999-00
General Fund	10,493,400	10,016,900
Restricted Funds	456,000	456,000
Federal Funds	38,381,000	38,685,500
Total	49,330,400	49,158,400

Included in the above General Fund appropriation is $478,000 in fiscal year 1999-2000 for debt service for bonds for the Local Match Participation Program for statewide flood control projects.

Included in the above General Fund appropriation is an additional amount of $433,000 in fiscal year 1998-99 and $433,000 in fiscal year 1999-2000 for the Joint Funding Administration.

12. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	1998-99	1999-00
General Fund	31,746,100	33,182,500

b. Local Government Economic Development Fund

	1998-99	1999-00
General Fund	27,284,100	32,192,000

The above appropriations from the General Fund are based on the official estimate of the Secretary of the Finance and Administration Cabinet for severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495. Moneys transferred from the General Fund to the Local Government Economic Development Fund shall be calculated at the percentage of thirty-five percent (35%) effective July 1, 1998, and thirty-eight percent (38%) effective July 1, 1999, notwithstanding provisions set forth in KRS 42.4582. If actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 to 42.495 and the amount to be allotted to the Local Government Economic Development Fund shall continue to be calculated at the percentages specified in this paragraph and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4582, the quarterly calculation and transfer of moneys from the General Fund to the Local Government Economic Development Fund pursuant to KRS 42.4582 shall be made only after each quarterly installment of the annual appropriation of $1,026,000 in fiscal year 1998-99 and $1,664,400 in fiscal year 1999-2000 has been credited to the Osteopathic Scholarship program within the Council on Postsecondary Education.

Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,026,000 in fiscal year 1998-99 and $1,664,400 in fiscal year 1999-2000 has been credited to the Osteopathic Scholarship program within the Council on Postsecondary Education.

Notwithstanding KRS 42.4585, effective July 1, 1998, the amount transferred annually from the Local Government Economic Development Fund into the Local Government Economic Assistance Fund under the provisions of KRS 42.4585 shall not be less than an amount equal to fourteen percent (14%) of the severance and processing taxes on coal collected annually and otherwise in accordance with KRS 42.450 to 42.495.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $450,000 has been credited to the East Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $350,000 has been credited to the West Kentucky Corporation through a grant from the Cabinet for Economic Development in each year of the biennium.

Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $325,000 in fiscal year 1998-99 and $320,000 in fiscal year 1999-2000, has been credited to the Coal County Development Office within the Cabinet for Economic Development.

Notwithstanding KRS 42.4592, the quarterly calculation for the allocation of moneys to coal producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $510,000 in fiscal year 1998-99 and $525,000 in fiscal year 1999-2000 has been credited to the Kentucky Appalachian Commission within the Office of the Governor.

Notwithstanding KRS 42.4586, the quarterly calculation of the allocation of moneys to coal producing counties through the Local Government Economic Development Fund to coal producing counties pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $916,300 has been credited to the Secondary Wood Products Development Fund in each year of the biennium.

Notwithstanding KRS 42.4588(2) and (4), the fiscal courts of the coal producing counties enumerated in this paragraph receiving allocations through the Local Government Economic Development Fund pursuant to KRS 42.4592 are authorized to expend Local Government Economic Development Program moneys for public purposes identified by the respective fiscal courts of the coal producing counties in the manner and amounts enumerated: Floyd County - Prestonsburg Recreational Park and Golf Course - $1,000,000; Harlan County - $3,275,000 for the following projects and related expenses: Sleepy Hollow Golf Course - $600,000, Kingdom Come Economic Industrial Development Authority purchase of industrial site and industrial spec building - $350,000, City of Lynch water and sewer lines - $200,000, Mine Portal #31 development project - $100,000, Wallins Creek water project - $250,000, Green Hills water project - $250,000, City of Harlan water and sewer project - $425,000, Harlan County Civic and Tourism Development Center - $500,000 in fiscal year 1998-99 and fiscal year 1999-2000; Underground Mine Tour - $100,000; Henderson County - Riverfront Improvement - $500,000; Jackson County - Area Vocational School - $500,000; Knott County - $3,000,000 for the following projects and related expenses: Red Fox Golf Course - $1,000,000, Hindman Branch of the Hazard Community College - $2,000,000; Leslie County - Community Development Training Center - $4,000,000; Letcher County - Red Fox Golf Course - $700,000, Letcher County High School Renovation - $1,500,000; City of Jenkins Welcome Center - $500,000; Martin County - Improve Water Treatment Plant - $3,000,000, Healthcare Clinic - $1,000,000; Ohio County - Bill Monroe Museum - $800,000; Perry County - Red Fox Golf Course - $700,000; Pike County - Civic Center - $6,500,000, Improvements at Fishtrap Reservoir - $1,000,000; Webster County - Upgrade Water Plant - $2,000,000; and Union County - Camp Breckinridge Museum - $1,000,000. The source of funding identified in this paragraph shall not come from moneys deposited under KRS 42.4592(1)(c).

These projects are determined by the General Assembly to be important to the furtherance of the policy objectives and economic development purposes for which the Local Government Economic Development Program was established. Total expenditures from this source in fiscal year 1998-99 and fiscal year 1999-2000 shall not exceed the amounts listed in the preceding paragraph for any project or any county enumerated above. No project in any coal county receiving funds from the Local Government Economic Development Fund, pursuant to KRS 42.4592, shall commit or expend such funds except upon prior written public approval of the Fiscal Court as reported to the Kentucky Department for Local Government and the Kentucky Cabinet for Economic Development.

Pursuant to the authority authorized in KRS 42.485, the continuing appropriation amount from fiscal year 1997-98 to fiscal year 1998-99 and from fiscal year 1998-99 to fiscal year 1999-2000 shall equal the cash balance in the Local Government Economic Development and Local Government Economic Assistance Funds accounts at the close of the preceding fiscal year.

c. Area Development Fund

	1998-99	1999-00
General Fund	1,000,000	1,000,000

Funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts notwithstanding KRS 48.185.

TOTAL - SPECIAL FUNDS

	1998-99	1999-00
General Fund	60,030,200	66,374,500

13. COMMISSION ON HUMAN RIGHTS

	1998-99	1999-00
General Fund	1,905,400	1,962,400
Restricted Funds	8,500	8,500
Federal Funds	189,500	189,500
Total	2,103,400	2,160,400

14. COMMISSION ON WOMEN

	1997-98	1998-99	1999-00
General Fund	65,000	246,100	253,600

15. KENTUCKY RETIREMENT SYSTEMS

	1997-98	1998-99	1999-00
Restricted Funds	1,047,000	14,588,600	15,613,500

16. KENTUCKY KARE HEALTH INSURANCE AUTHORITY

	1998-99	1999-00
Restricted Funds	1,003,000	1,042,500

17. REGISTRY OF ELECTION FINANCE

	1998-99	1999-00
General Fund	1,368,600	1,409,000
Restricted Funds	357,000	
Total	1,725,600	1,409,000

The state share of Gubernatorial campaign financing (KRS 121A.030 and 121A.080) required for payment under the provisions of KRS 121A.030 and 121A.080 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

18. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Board of Accountancy

	1998-99	1999-00
Restricted Funds	555,500	561,500

b. Alcohol and Drug Counselors

	1998-99	1999-00
Restricted Funds	76,000	77,500

c. Board of Architects

	1998-99	1999-00

	Restricted Funds	162,500	202,500
d.	Board of Art Therapists		
		1998-99	1999-00
	Restricted Funds	6,500	7,000
e.	Kentucky Athletic Commission		
		1998-99	1999-00
	Restricted Funds	60,500	66,500
f.	Board of Auctioneers		
		1998-99	1999-00
	Restricted Funds	259,500	268,500
g.	Board of Barbering		
		1998-99	1999-00
	Restricted Funds	215,000	222,500
h.	Board of Chiropractic Examiners		
		1998-99	1999-00
	Restricted Funds	132,000	139,500
i.	Board of Dentistry		
		1998-99	1999-00
	Restricted Funds	343,000	364,500
j.	Board of Dietitians and Nutritionists		
		1998-99	1999-00
	Restricted Funds	36,500	37,500
k.	Board of Embalmers and Funeral Directors		
		1998-99	1999-00
	Restricted Funds	161,500	170,500
l.	Board of Engineers and Land Surveyors		
		1998-99	1999-00
	Restricted Funds	998,000	1,033,000
m.	Board of Geologists		
		1998-99	1999-00
	Restricted Funds	61,500	68,000
n.	Board of Hairdressers and Cosmetologists		
		1998-99	1999-00
	Restricted Funds	891,500	876,000
o.	Board of Hearing Instrument Specialists		
		1998-99	1999-00
	Restricted Funds	29,000	32,000
p.	Board of Landscape Architecture		
		1998-99	1999-00
	Restricted Funds	45,000	47,000
q.	Board of Marriage and Family		
		1998-99	1999-00
	Restricted Funds	21,000	22,000
r.	Board of Medical Licensure		
		1998-99	1999-00
	Restricted Funds	1,604,000	1,669,500
s.	Board of Nursing		

	1998-99	1999-00
Restricted Funds	2,720,000	2,739,000

Included in the above Restricted Funds appropriation is $290,000 in fiscal year 1998-99 and $200,000 in fiscal year 1999-2000 for the Nursing Incentive Scholarship Program.

t. Nursing Home Administrators Licensure Board

	1998-99	1999-00
Restricted Funds	73,000	80,500

u. Board of Occupational Therapy

	1998-99	1999-00
Restricted Funds	40,000	41,500

v. Board of Ophthalmic Dispensers

	1998-99	1999-00
Restricted Funds	26,000	27,000

w. Board of Optometric Examiners

	1998-99	1999-00
Restricted Funds	129,500	135,500

x. Board of Pharmacy

	1998-99	1999-00
Restricted Funds	594,500	621,000

y. Board of Physical Therapy

	1998-99	1999-00
Restricted Funds	249,500	255,000

z. Board of Podiatry

	1998-99	1999-00
Restricted Funds	9,500	9,500

aa. Professional Counselors

	1998-99	1999-00
Restricted Funds	12,000	14,000

ab. Board of Psychology

	1998-99	1999-00
Restricted Funds	178,000	190,500

ac. Real Estate Appraisers Board

	1998-99	1999-00
Restricted Funds	357,000	370,000

ad. Real Estate Commission

	1998-99	1999-00
Restricted Funds	1,969,000	2,043,000

Included in the above Restricted Funds appropriation is $827,500 in fiscal year 1998-99 and $852,500 in fiscal year 1999-2000 for Real Estate Education and Recovery.

ae. Board of Respiratory Care

	1998-99	1999-00
Restricted Funds	58,000	58,500

af. Board of Social Workers

	1998-99	1999-00
Restricted Funds	85,000	94,000

ag. Board of Speech Pathologists and Audiologists

	1998-99	1999-00
Restricted Funds	60,500	62,000

ah. Board of Veterinary Examiners

	1998-99	1999-00
Restricted Funds	86,500	95,000

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	1998-99	1999-00
Restricted Funds	12,306,500	12,701,500

19. GOVERNMENTAL SERVICES CENTER

	1998-99	1999-00
Restricted Funds	1,237,000	1,276,000

20. EXECUTIVE BRANCH ETHICS COMMISSION

	1998-99	1999-00
General Fund	270,700	281,400
Restricted Funds	3,000	3,000
Total	273,700	284,400

21. MISCELLANEOUS APPROPRIATIONS

a. Judgments

	1998-99	1999-00
General Fund	10,000,000	-0-

The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 1997-1998 or fiscal year 1998-1999 shall not lapse but shall be carried forward into fiscal years 1998-99 and 1999-2000, respectively.

b. Attorney General Expense

	1998-99	1999-00
General Fund	150,000	150,000

c. Board of Claims Awards

	1998-99	1999-00
General Fund	300,000	300,000

Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $1,000, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	1998-99	1999-00
General Fund	2,000,000	2,000,000

Included in the above appropriation is funding for fees to be paid to the guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	1998-99	1999-00
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	1998-99	1999-00
General Fund	300,000	300,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments ICF/MR

	1998-99	1999-00

General Fund	60,000	60,000

h. Frankfort in Lieu of Taxes

	1998-99	1999-00
General Fund	195,000	195,000

i. Frankfort Cemetery

	1998-99	1999-00
General Fund	2,500	2,500

j. Police Officers and Firefighters--Life Insurance

	1998-99	1999-00
General Fund	300,000	300,000

Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315.

k. Master Commissioners--Employers Retirement

	1998-99	1999-00
General Fund	260,000	280,000

l. Master Commissioners--Social Security

	1998-99	1999-00
General Fund	161,000	166,000

m. Workers' Compensation

	1998-99	1999-00
General Fund	275,000	290,000

Funds are appropriated for workers' compensation premiums for fee officers in counties over 70,000 in population.

n. Medical Malpractice Liability Insurance Reimbursements

	1998-99	1999-00
General Fund	60,000	60,000

TOTAL - MISCELLANEOUS APPROPRIATIONS

	1998-99	1999-00
General Fund	14,463,500	4,503,500

Included in the above appropriations is $0 in fiscal year 1998-99 and $0 in fiscal year 1999-2000 for refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the state. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from any available balance in the Judgments appropriation and then from either the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

22. KENTUCKY VETERANS' CENTER (NURSING HOME)

	1998-99	1999-00
General Fund	5,618,300	5,909,400
Restricted Funds	10,677,000	11,304,500
Total	16,295,300	17,213,900

TOTAL - GOVERNMENT OPERATIONS

	1997-98	1998-99	1999-00
General Fund	65,000	204,267,100	200,274,800
Restricted Funds	1,099,700	63,880,100	66,558,500
Federal Funds	114,000	51,860,100	52,168,500
TOTAL	1,278,700	320,007,300	319,001,800

B. CABINET FOR ECONOMIC DEVELOPMENT

23. CABINET FOR ECONOMIC DEVELOPMENT

Budget Units

a. Secretary

	1998-99	1999-00
General Fund	3,483,000	4,491,000

Included in the above General Fund appropriations is $450,000 for the East Kentucky Jobs Creation Corporation and $350,000 for the West Kentucky Jobs Creation Corporation each fiscal year of the biennium. Both Corporations are required to submit a quarterly financial and status report to the Legislative Research Commission and to the Interim Joint Committee on Appropriations and Revenue. Also included in the above General Fund appropriations is $325,000 in fiscal year 1998-99 and $320,000 in fiscal year 1999-2000 for the Coal County Development Office. Notwithstanding KRS 42.4592, the General Fund appropriations for the East Kentucky Corporation, the West Kentucky Corporation, and the Coal County Development Office will be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

b. Administration and Support

	1998-99	1999-00
General Fund	1,899,000	2,008,000
Restricted Funds	254,000	223,000
Total	2,153,000	2,231,000

c. Job Development

	1998-99	1999-00
General Fund	2,333,000	2,413,000

d. Financial Incentives

	1998-99	1999-00
General Fund	2,729,000	3,343,000
Restricted Funds	3,040,500	2,347,000
Total	5,769,500	5,690,000

The General Fund appropriation for fiscal year 1997-98 and succeeding fiscal years for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account, notwithstanding KRS 45.229.

Notwithstanding KRS 154.12-207, the Secretary is directed to take such action as may be necessary to execute contractual agreements for designated skills training and education projects for which funds have been specifically appropriated.

No commitment for employee training shall be made beyond the ability of the Cabinet to fund the project within the appropriation for the current biennium.

Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill, shall lapse to the Capital Construction Surplus Account at the end of each fiscal year.

The Bluegrass State Skills Corporation shall submit a quarterly financial report to the Governor's Office for Policy and Management, the Legislative Research Commission, and the Interim Joint Committee on Appropriations and Revenue.

e. Debt Service

	1998-99	1999-00
General Fund		666,000

f. Community Development

	1998-99	1999-00
General Fund	3,033,000	3,162,000
Restricted Funds	177,000	186,500
Federal Funds	179,000	160,000
Total	3,389,000	3,508,500

Included in the above General Fund Appropriation is $300,000 for the Kentucky Technology Service Grant program each fiscal year of the biennium.

TOTAL - CABINET FOR ECONOMIC DEVELOPMENT

	1998-99	1999-00
General Fund	13,477,000	16,083,000

Restricted Funds	3,471,500	2,756,500
Federal Funds	179,000	160,000
TOTAL	17,127,000	18,999,500

C. EDUCATION

24. EDUCATION

Budget Units

a. Support Education Excellence in Kentucky (SEEK) Program

	1998-99	1999-00
General Fund	2,114,755,500	2,184,668,000

Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the Support Education Excellence in Kentucky program.

The above appropriations include $1,524,123,500 in fiscal year 1998-99 and $1,573,075,600 in fiscal year 1999-2000 for the base SEEK program as defined by KRS 157.360. Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Included in the appropriation for base SEEK is $174,743,900 in fiscal year 1998-99 and $189,859,500 in fiscal year 1999-2000 for pupil transportation, notwithstanding KRS 157.360(2)(c).

Included in the above appropriation is $120,236,800 in fiscal year 1998-99 and $118,834,100 in fiscal year 1999-2000 for the Tier I component as established by KRS 157.440.

Included in the above appropriation is $2,278,000 in fiscal year 1998-99 and $2,346,000 in fiscal year 1999-2000 for vocational transportation.

Included in the above appropriation is $19,623,000 in fiscal year 1998-99 and $20,545,000 in fiscal year 1999-2000 to provide secondary vocational education in state-operated vocational schools.

Included in the above appropriation is $43,150,300 in fiscal year 1998-99 and $41,137,800 in fiscal year 1999-2000 to provide facilities equalization funding pursuant to the provisions of KRS 157.620 and KRS 157.440.

Included in the above appropriation is $230,600,000 in fiscal year 1998-99 and $238,870,000 in fiscal year 1999-2000 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

b. Executive Policy and Management

	1998-99	1999-00
General Fund	3,430,400	3,536,700
Restricted Funds	384,800	405,700
Federal Funds	510,000	526,000
Total	4,325,200	4,468,400

c. Management Support Services

	1997-98	1998-99	1999-00
General Fund	35,000	287,908,800	302,128,300
Restricted Funds		2,119,500	2,188,000
Federal Funds		135,865,200	139,926,000
Total	35,000	425,893,500	444,242,300

Included in the above General Fund appropriation is $20,000,000 in fiscal year 1998-99 and $20,000,000 in fiscal year 1999-2000 for the education technology escrow account. Included in the General Fund appropriation for education technology is $105,000 in each fiscal year to continue the existing professional development program located at Murray State University which provides training and professional development for teachers in technology utilization. The Department of Education shall, under a contractual arrangement, provide $105,000 in each fiscal year to Murray State University for this purpose.

Included in the above General Fund appropriation is $10,800,000 in each fiscal year for reimbursement to local school districts for the Out-of-District Children Program. Included in the funding support for the Out-of-District Children Program is $50,000 in each fiscal year to support the educational costs associated with the establishment of a new day treatment program.

Included in the above General Fund appropriation is $216,843,500 in fiscal year 1998-99 and $230,797,000 in fiscal year 1999-2000 to provide health and life insurance coverage for employees of local school districts.

Included in the above General Fund appropriation is $2,336,000 in fiscal year 1998-99 and $2,406,000 in fiscal year 1999-2000 to enable the Department of Education to provide the employer match for qualified employees as provided by KRS 161.550.

d. Learning Results Services

	1998-99	1999-00
General Fund	32,415,300	32,962,900
Restricted Funds	146,000	150,500
Total	32,561,300	33,113,400

Included in the above General Fund appropriation is $10,000,000 in each fiscal year for the school rewards escrow account.

e. Learning Support Services

	1998-99	1999-00
General Fund	173,715,200	193,769,200
Restricted Funds	2,100,000	2,160,500
Federal Funds	213,027,500	219,417,500
Total	388,842,700	415,347,200

The above General Fund appropriation includes $40,277,900 in fiscal year 1998-99 and $41,969,800 in fiscal year 1999-2000 for Family Resource and Youth Services Centers. Also included in the above General Fund appropriation is $4,874,100 in fiscal year 1998-99 and $5,127,300 in fiscal year 1999-2000 for the Kentucky School for the Blind, and $8,332,900 in fiscal year 1998-99 and $8,895,900 in fiscal year 1999-2000 for the Kentucky School for the Deaf.

Included in the above General Fund appropriation is $50,000 in each fiscal year for the Advisory Council for Gifted and Talented Education.

Included in the above General Fund appropriation is $50,000 in each fiscal year to establish a Community After School Program in local school district number 441.

TOTAL - EDUCATION

	1997-98	1998-99	1999-00
General Fund	35,000	2,612,225,200	2,717,065,100
Restricted Funds		4,750,300	4,904,700
Federal Funds		349,402,700	359,869,500
TOTAL	35,000	2,966,378,200	3,081,839,300

D. EDUCATION, ARTS AND HUMANITIES CABINET

Budget Units

25. OFFICE OF THE SECRETARY

	1998-99	1999-00
General Fund	2,469,100	2,555,600
Restricted Funds	94,000	97,000
Total	2,563,100	2,652,600

Included in the above General Fund appropriation is $4,000 in each fiscal year for operating expenses related to the Martin Luther King Jr. Commission.

Included in the above General Fund appropriation is $1,092,500 in fiscal year 1998-99 and $1,124,500 in fiscal year 1999-2000 for the Governor's Scholars Program.

Included in the above General Fund appropriation is $318,500 in fiscal year 1998-99 and $328,000 in fiscal year 1999-2000 for the Governor's School for the Arts.

Included in the above General Fund appropriation is $200,000 in each fiscal year for the East Kentucky Center for Science, Mathematics, and Technology.

26. KENTUCKY ARTS COUNCIL

	1998-99	1999-00
General Fund	4,095,800	4,216,600
Restricted Funds	362,500	369,500
Federal Funds	476,000	416,000
Total	4,934,300	5,002,100

27. TEACHERS' RETIREMENT SYSTEM

	1998-99	1999-00
General Fund	68,357,000	75,828,000
Restricted Funds	4,401,700	4,733,100
Total	72,758,700	80,561,100

General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716, notwithstanding the provisions of KRS 161.550.

The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716, notwithstanding KRS 161.550. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 1998-99 or fiscal year 1999-2000 for the cost of administration.

Included in the above General Fund appropriation is $7,400,000 in fiscal year 1998-99 and $15,300,000 in fiscal year 1999-2000 to provide, when combined with the annual one and one-half (1.5%) percent retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of three percent (3%) in fiscal year 1998-99 and an additional three percent (3%) in fiscal year 1999-2000.

Included in the above General Fund appropriation is $3,657,000 in fiscal year 1998-1999 and $7,828,000 in fiscal year 1999-2000 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave), as permitted pursuant to KRS 161.553.

28. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	1998-99	1999-00
General Fund	56,561,000	66,364,000

Included in the above General Fund appropriation is $57,471,500 in fiscal year 1998-99 and $57,360,600 in fiscal year 1999-2000 for debt service for bonds previously issued.

Included in the above General Fund appropriation is $2,048,500 in fiscal year 1998-99 and $3,751,000 in fiscal year 1999-2000 for debt service for previously authorized bonds.

Included in the above General Fund appropriation is $1,520,000 in fiscal year 1998-99 and $5,520,000 in fiscal year 1999-2000 for debt service for newly-authorized bonds.

Notwithstanding KRS 45.229, General Fund moneys in the amount of $4,200,000 shall continue forward from fiscal year 1997-98 to fiscal year 1998-99.

29. DEAF AND HARD OF HEARING

	1998-99	1999-00
General Fund	775,300	853,200
Restricted Funds	200,000	200,000
Total	975,300	1,053,200

30. KENTUCKY HERITAGE COUNCIL

	1998-99	1999-00
General Fund	810,400	831,900
Restricted Funds	95,500	114,000
Federal Funds	792,000	792,000
Total	1,697,700	1,737,900

31. KENTUCKY EDUCATIONAL TELEVISION

	1997-98	1998-99	1999-00
General Fund		14,392,700	14,770,000
Restricted Funds	310,000	868,000	1,096,000
Federal Funds	311,000		
Total	621,000	15,260,700	15,886,000

32. KENTUCKY HISTORICAL SOCIETY

	1997-98	1998-99	1999-00
General Fund		5,333,600	5,756,100

Restricted Funds	75,000	399,500	490,000
Federal Funds		625,000	186,000
Total	75,000	6,358,100	6,432,100

Included in the above General Fund appropriation is $2,918,000 in fiscal year 1998-99 and $3,268,500 in fiscal year 1999-2000 for the Kentucky History Center.

33. LIBRARIES AND ARCHIVES

a. General Operations

	1998-99	1999-00
General Fund	6,560,200	6,611,000
Restricted Funds	1,360,000	1,490,000
Federal Funds	1,477,500	1,499,000
Total	9,397,700	9,600,000

b. Direct Local Aid

	1998-99	1999-00
General Fund	6,443,000	6,614,500
Restricted Funds	8,500	9,000
Federal Funds	541,000	541,000
Total	6,992,500	7,164,500

Included in the above General Fund appropriation is $2,688,500 in each fiscal year to award per capita grants at the rate of seventy-three cents, notwithstanding KRS 171.201.

TOTAL - LIBRARIES AND ARCHIVES

	1997-98	1998-99	1999-00
General Fund		13,003,200	13,225,500
Restricted Funds	385,000	1,368,500	1,499,000
Federal Funds	311,000	2,018,500	2,040,000
Total	696,000	16,390,200	16,764,500

34. KENTUCKY CENTER FOR THE ARTS

	1998-99	1999-00
General Fund	625,500	625,500

35. ENVIRONMENTAL EDUCATION COUNCIL

	1998-99	1999-00
General Fund	53,000	
Restricted Funds	262,000	262,000
Total	315,000	262,000

Included in the above General Fund appropriation is $53,000 in fiscal year 1998-99 to facilitate production of the Council's Master Plan.

TOTAL - EDUCATION, ARTS, AND HUMANITIES CABINET

	1997-98	1998-99	1999-00
General Fund		166,476,600	185,026,400
Restricted Funds	385,000	8,051,700	8,860,600
Federal Funds	311,000	3,911,500	3,434,000
TOTAL	696,000	182,639,800	197,321,000

E. CABINET FOR FAMILIES AND CHILDREN

Budget Units

36. SOCIAL INSURANCE

a. Administration

	1998-99	1999-00
General Fund	54,959,700	55,027,200

Restricted Funds	40,180,500	43,195,500
Federal Funds	155,032,900	161,197,100
Total	250,173,100	259,419,800

The Department for Social Insurance shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $75 per day plus travel expenses.

If any portion of the above General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the department, the amount may be used for Temporary Assistance for Needy Families (TANF) Benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance. In no instance shall these excess funds be used without prior written approval of the State Budget Director of the Governor's Office for Policy and Management to:

(1) Establish a new program.
(2) Expand the services of an existing program.
(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management and shall be reported to the Interim Joint Committee on Appropriations and Revenue.

Notwithstanding KRS 45.229, General Fund moneys in the amount of $1,500,000 shall continue from fiscal year 1998-99 into fiscal year 1999-2000.

b. Benefits

	1998-99	1999-00
General Fund	77,047,500	73,773,500
Restricted Funds	4,800,000	2,800,000
Federal Funds	158,976,500	161,987,000
Total	240,824,000	238,560,500

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance.

Due to the demands placed upon the Cabinet to meet the increasing participation rates required for welfare reform, any General Fund appropriation unexpended in fiscal years 1997-98 and 1998-99 shall not lapse but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229, in compliance with the General Provisions of this Act.

Any unexpended appropriations for Social Insurance - Benefits in excess of $5,000,000 in fiscal year 1997-98 and any unexpended appropriations in fiscal year 1998-99 shall be used to fund the federally mandated Medicaid - Temporary Assistance to Needy Families (TANF) systems de-link and the state match for the Welfare-to-Work program. Any remaining unexpended appropriations may be used for other welfare reform-related expenditures within the Cabinet, subject to the approval of the State Budget Director of the Governor's Office for Policy and Management.

37. SOCIAL SERVICES

	1997-98	1998-99	1999-00
General Fund	5,000,000	129,103,200	141,361,900
Restricted Funds		41,689,000	41,339,000
Federal Funds		141,908,700	143,607,400
Total	5,000,000	312,700,900	326,308,300

Notwithstanding KRS 45.229, General Fund moneys in the amount of $3,279,900 shall continue forward from fiscal year 1998-99 to fiscal year 1999-2000.

38. AGING SERVICES

	1998-99	1999-00
General Fund	23,244,500	23,337,000
Restricted Funds	6,877,700	13,755,300
Federal Funds	16,844,500	16,844,500
Total	46,966,700	53,936,800

39. ADMINISTRATION SERVICES

	1998-99	1999-00
General Fund	8,306,000	8,595,500

Restricted Funds	2,637,000	1,748,500
Federal Funds	6,889,000	7,095,500
Total	17,832,000	17,439,500

TOTAL - CABINET FOR FAMILIES AND CHILDREN

	1997-98	1998-99	1999-00
General Fund	5,000,000	292,660,900	302,095,100
Restricted Funds		96,184,200	102,838,300
Federal Funds		479,651,600	490,731,500
Total	5,000,000	868,496,700	895,664,900

F. FINANCE AND ADMINISTRATION CABINET

40. FINANCE AND ADMINISTRATION CABINET

Budget Units

a. General Administration

	1998-99	1999-00
General Fund	8,805,000	8,830,000
Restricted Funds	4,323,000	4,508,000
Federal Funds	58,133,000	58,132,000
Road Fund	125,000	125,000
Total	71,386,000	71,595,000

Included in the above Restricted Funds appropriation is $351,000 in fiscal year 1998-99 and $362,000 in fiscal year 1999-2000 to fund the operating costs of the Office for Geographic Information Systems. These receipts will be derived from any state agency or university that directly benefits from the implementation of the Geographic Information Systems basemap technology. The Office of Geographic Information Systems shall recommend, and the Kentucky Information Resources Management (KIRM) Commission shall approve, the cost allocation plan. Upon approval by KIRM, the agencies and universities shall pay their proportional share of the plan.

Included in the above appropriations is $125,000 from the Road Fund and $466,000 in Restricted Funds in fiscal year 1998-99, and $125,000 from the Road Fund and $481,000 from Restricted Funds in fiscal year 1999-2000 to fund the Kentucky Information Resources Management Commission at a continuation level of funding. Should the Commission find it necessary to increase its level of spending, subject to the conditions and procedures in this Act, the additional expenses shall be offset by proposed charges to state agencies and university users.

Included in the above General Fund appropriation is $400,000 in fiscal year 1998-1999 for the Affordable Housing Trust Fund which shall be matched with $400,000 from the Kentucky Housing Corporation Housing Assistance Fund.

b. Debt Service

	1998-99	1999-00
General Fund	142,743,000	158,864,000

Included in the above General Fund appropriation is $1,012,000 in fiscal year 1999-2000 for new bonds for all KIA programs. Also included in the above General Fund appropriation is $889,000 in fiscal year 1998-1999 and $889,000 in fiscal year 1999-2000 for previously authorized but unissued bonds for all Kentucky Infrastructure Authority programs.

Also included in the above General Fund appropriation is $10,734,000 in fiscal year 1998-99 and $10,727,000 in fiscal year 1999-2000 for debt service on all previously issued bonds by the Kentucky Infrastructure Authority.

c. Administration

	1998-99	1999-00
General Fund	3,852,000	3,943,000
Restricted Funds	8,063,000	8,347,000
Road Fund	257,000	270,000
Total	12,172,000	12,560,000

d. Facilities Management

	1998-99	1999-00
General Fund	8,087,000	8,365,000
Restricted Funds	19,097,000	20,458,000

Total	27,184,000	28,823,000

e. Information Systems

	1998-99	1999-00
Restricted Funds	48,933,000	50,384,000

f. County Costs

	1998-99	1999-00
General Fund	16,186,000	16,186,000
Restricted Funds	1,327,000	1,327,000
Total	17,513,000	17,513,000

Included in the above General Fund appropriation is $5,431,000 in fiscal year 1998-99 and $5,431,000 in fiscal year 1999-00 for base court revenue. Notwithstanding KRS 29A.170(1), all jurors in Circuit and District Court shall be paid a daily fee rate of $18.50 in fiscal year 1998-99 and $25.00 in fiscal year 1999-2000 for jury service. Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

g. County Fees

	1998-99	1999-00
Restricted Funds	49,744,000	51,771,000

TOTAL - FINANCE AND ADMINISTRATION CABINET

	1998-99	1999-00
General Fund	179,673,000	196,188,000
Restricted Funds	131,487,000	136,795,000
Federal Funds	58,133,000	58,132,000
Road Fund	382,000	395,000
TOTAL	369,675,000	391,510,000

G. CABINET FOR HEALTH SERVICES

Budget Units

41. MEDICAID SERVICES

a. Administration

	1998-99	1999-00
General Fund	19,183,000	19,425,000
Restricted Funds	7,493,200	7,118,100
Federal Funds	22,375,000	23,278,500
Total	49,051,200	49,821,600

If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director of the Governor's Office for Policy and Management to:

(1) Establish a new program.

(2) Expand the services of an existing program.

(3) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director of the Governor's Office for Policy and Management.

b. Benefits

	1998-99	1999-00
General Fund	611,996,000	640,355,400
Restricted Funds	225,629,500	183,769,600
Federal Funds	2,012,262,900	1,989,243,000
Total	2,849,888,400	2,813,368,000

These funds are to be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services.

Any General Fund appropriation unexpended in fiscal years 1997-98 and 1998-99 shall not lapse, but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

It is the intent of the General Assembly that the Secretary of the Cabinet for Health Services be permitted to transfer from Medicaid Benefits to Medicaid Administration up to one half of one percent (.5%) or $4,000,000, whichever is less, of the combined General Fund and Restricted Funds appropriations to the Medicaid Administration budget to be used for technical assistance and costs associated with achieving Year 2000 compliance for the Medicaid Management Information System. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall present the proposed plan to the Interim Joint Committee on Appropriations and Revenue.

42. PUBLIC HEALTH

	1998-99	1999-00
General Fund	55,277,300	56,291,700
Restricted Funds	10,088,000	9,408,000
Federal Funds	115,765,000	116,474,000
Total	181,130,300	182,173,700

43. MENTAL HEALTH/MENTAL RETARDATION

	1998-99	1999-00
General Fund	150,418,600	158,321,800
Restricted Funds	124,321,300	127,002,800
Federal Funds	35,150,500	34,990,000
Total	309,890,400	320,314,600

44. CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	1998-99	1999-00
General Fund	3,817,700	6,190,600
Restricted Funds	5,771,000	5,100,000
Federal Funds	5,887,000	4,497,000
Total	15,475,700	15,787,600

45. CERTIFICATE OF NEED

	1998-99	1999-00
General Fund	127,800	131,500
Restricted Funds	301,000	319,000
Total	428,800	450,500

46. ADMINISTRATIVE SUPPORT

	1998-99	1999-00
General Fund	22,410,700	22,904,800
Restricted Funds	5,150,000	5,040,500
Federal Funds	57,133,000	57,451,500
Total	84,693,700	85,396,800

Any General Fund appropriation unexpended in fiscal year 1998-99 for the Children's Health Initiative Program within Administrative Support shall not lapse, but shall be carried forward into fiscal year 1999-2000, notwithstanding KRS 45.229.

TOTAL - CABINET FOR HEALTH SERVICES

	1998-99	1999-00
General Fund	863,231,100	903,620,800
Restricted Funds	378,754,000	337,758,000
Federal Funds	2,248,573,400	2,225,934,000
TOTAL	3,490,558,500	3,467,312,800

H. JUSTICE CABINET

47. JUSTICE OPERATIONS

Budget Units

a. Justice Administration

	1998-99	1999-00
General Fund	6,275,600	6,423,900
Restricted Funds	5,426,500	5,409,500
Federal Funds	12,791,000	12,993,000
Total	24,493,100	24,826,400

Included in the above General Fund appropriation is $1,040,500 in fiscal year 1998-99 and $1,080,500 in fiscal year 1999-2000 for operation of the State Parole Board.

Included in the above General Fund appropriation is $1,500,000 in each fiscal year to provide free civil legal services for indigents.

Included within the above Restricted Funds appropriation is $240,000 in fiscal year 1998-99 and $230,000 in fiscal year 1999-2000 to support the Criminal Justice Council. These Restricted Funds shall come from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF). Any provisions to the contrary codified in KRS 15.430, 42.190, or 136.392 are suspended.

b. State Police

	1997-98	1998-99	1999-00
General Fund	1,158,500	63,084,000	77,463,700
Restricted Funds	731,300	6,572,400	7,119,500
Road Fund		35,000,000	30,000,000
Federal Funds		9,068,500	9,433,000
Total	1,889,800	113,724,900	124,016,200

Included in the above General Fund appropriation is $1,158,500 in fiscal year 1997-98 for maintenance of essential operations related to the implementation of KRS 237.110. It is intended that a portion of this appropriation is transferred to the appropriate Restricted Funds account within the Department of State Police to offset a current year deficit in that account.

Included in the above Restricted Funds appropriation for fiscal year 1997-98 is $731,300 for the maintenance of operations and essential services of the Department of State Police.

Included in the above General Fund appropriation is $3,457,000 in fiscal year 1999-2000 for new debt service to fund the replacement of the basic radio system, the replacement of the integrated criminal apprehension program and the upgrade of the Kentucky Accident Reporting System.

Included within the above General Fund appropriation is $265,000 in fiscal year 1999-2000 for debt service to fund the construction of state police posts at La Grange and at Hazard.

There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

c. Criminal Justice Training

	1998-99	1999-00
Restricted Funds	25,682,500	29,288,000

Under the provisions of the Kentucky Law Enforcement Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified police officer's annual base salary from the Law Enforcement Foundation Program Fund, to be paid to each officer in addition to the officer's regular salary as prescribed by KRS 15.460 and KRS 15.500. Included in the above appropriation is $12,183,500 in fiscal year 1998-99 and $12,482,000 in fiscal year 1998-2000 for training incentive payments pursuant to KRS 15.430 and KRS 15.440 from receipts pursuant to KRS 136.392. Also included in the above Restricted Funds appropriation, and subject to passage of enabling legislation in the 1998 Regular Session of the General Assembly, is $1,269,100 in fiscal year 1998-99 and $2,530,900 in fiscal year 1999-2000 for an increase in training incentive payments to each participant. The increase equates to $250 per qualified police officer in fiscal year 1998-99 and an additional $250 per officer in fiscal year 1999-2000 for a total of $2,750 in fiscal year 1998-99 and $3,000 in fiscal year 1999-2000 for each participant. Also subject to the passage of enabling legislation, there is provided in the appropriation above $4,231,400 in fiscal year 1998-99 and $4,616,100 in fiscal year 1999-2000 to make additional funds available to provide the pay incentive to all eligible sheriffs and deputies who qualify as well as all eligible police officers employed by a postsecondary educational institution. Also pending the passage of legislation, there is provided in the appropriation above $403,000 in fiscal year 1998-99 and $364,000 in fiscal year 1999-2000 to establish a program to certify all law enforcement officers who meet certain professional criteria outlined in proposed legislation. If funds appropriated from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF) for training incentive payments are not sufficient to ensure each participant a training incentive payment which is at least $2,750 in fiscal year 1998-99 and $3,000 in fiscal year 1999-2000, the General Assembly directs that any amounts available to KLEFPF be utilized to ensure the payment.

Also included in the appropriation above is $1,181,500 for debt service in fiscal year 1998-99 and $1,185,500 in fiscal year 1999-2000 for bonds previously issued. New debt service in the amount of $1,980,000 in fiscal year 1999-2000 is appropriated and included above for a new Law Enforcement Basic Training Complex on the campus of Eastern Kentucky University.

Notwithstanding KRS 15.430, 42.190, or 136.392, the fund balance reserve shall not exceed $2,000,000 at the end of fiscal year 1997-98.

Notwithstanding KRS 15.430, 42.190, or 136.392, funds unexpended at the end of fiscal year 1998-99 and fiscal year 1999-2000 shall not lapse but shall be carried forward into the following fiscal year.

d. Juvenile Justice

	1997-98	1998-99	1999-00
General Fund	2,000,000	56,596,400	69,009,400
Restricted Funds		9,114,400	11,254,500
Federal Funds		15,057,000	15,057,000
Total	2,000,000	80,767,800	95,320,900

Included within the above General Fund appropriation is $2,000,000 in fiscal year 1997-98 for private child care costs incurred by the Department of Juvenile Justice. Also included within the above General Fund appropriation is $2,578,000 in fiscal year 1999-2000 for debt service for the construction of three additional juvenile detention facilities, a new maximum security facility, and expansion of the Breathitt County Detention Center.

It is intended that $69,000 in General Fund appropriation in fiscal year 1997-98 be transferred from the operating budget to the capital budget to be applied toward the scope of the capital construction project titled "40-Bed Boot Camp," authorized in Part II of this Act.

Included in the above appropriation is $693,700 in each fiscal year for education-related costs for students in day treatment programs. These funds shall be transferred to the Kentucky Department of Education, Management Support Services for distribution for these purposes.

TOTAL - JUSTICE OPERATIONS

	1997-98	1998-99	1999-00
General Fund	3,158,500	125,956,000	152,897,000
Restricted Funds	731,300	46,795,800	53,071,500
Road Fund		35,000,000	30,000,000
Federal Funds		36,916,500	37,483,000
Total	3,889,800	244,668,300	273,451,500

48. CORRECTIONS

Budget Units

a. Corrections Management

	1998-99	1999-00
General Fund	6,842,200	9,756,200
Restricted Funds	271,000	161,000
Total	7,113,200	9,917,200

Included in the General Fund appropriation above is $2,473,000 in fiscal year 1999-2000 for new debt service to fund the construction of a 200-bed dorm at Blackburn Correctional Complex, Phase I Expansion at the Kentucky Correctional Institute for Women, the design and site acquisition for a medium security prison and the replacement of a water tank and water line at Northpoint Training Center.

b. Community Services and Local Facilities

	1997-98	1998-99	1999-00
General Fund	4,129,000	63,939,400	69,833,700
Restricted Funds		326,000	336,000

Federal Funds		1,053,500	1,412,000
Total	4,129,000	65,318,900	71,581,700

Included in the General Fund appropriation is $411,600 in fiscal year 1998-99 and $773,900 in fiscal year 1999-2000 to provide a $1,000 salary increase in fiscal year 1998-99 and an additional $1,250 salary increase in fiscal year 1999-2000 for probation and parole officers.

Included in the above General Fund appropriation is $4,129,000 in fiscal year 1997-98 for costs associated with housing additional inmates in county jails.

General Fund moneys are provided in the amount of $21,000 in fiscal year 1998-99 and $93,000 in fiscal year 1999-2000 to expand the Probation and Parole Career Ladder.

c. Adult Correctional Institutions

	1997-98	1998-99	1999-00
General Fund		164,430,800	176,843,200
Restricted Funds	2,684,900	21,848,300	22,681,500
Federal Funds		2,030,500	2,861,500
Total	2,684,900	188,309,600	202,386,200

Included in the Restricted Funds appropriation is $2,684,900 in fiscal year 1997-98 for the production of the final portion of the 1998 general issue of license plates in the Division of Correctional Industries.

Included in the General Fund appropriation is $2,663,000 in fiscal year 1999-2000 to provide a $1,000 salary increase for correctional officers.

Included in the General Fund appropriation is $2,000,000 in each fiscal year for contracting an additional 200 minimum security beds for men at the Otter Creek Correctional Complex starting July 1, 1998.

d. Local Jail Support

	1998-99	1999-00
General Fund	14,568,500	14,568,500

Included in the General Fund appropriation is $888,000 in fiscal year 1998-99 and $888,000 in fiscal year 1999-2000 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $300,000 in fiscal year 1998-99 and $300,000 in fiscal year 1999-2000 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	1997-98	1998-99	1999-00
General Fund	4,129,000	249,780,900	271,001,600
Restricted Funds	2,684,900	22,445,300	23,178,500
Federal Funds		3,084,000	4,273,500
Total	6,813,900	275,310,200	298,453,600

TOTAL - JUSTICE CABINET

	1997-98	1998-99	1999-00
General Fund	7,287,500	375,736,900	423,898,600
Restricted Funds	3,416,200	69,241,100	76,250,000
Road Fund		35,000,000	30,000,000
Federal Funds		40,000,500	41,756,500
TOTAL	10,703,700	519,978,500	571,905,100

I. LABOR

49. LABOR CABINET

Budget Units

a. General Administration and Support

1998-99	1999-00

General Fund	518,000	532,800
Restricted Funds	4,484,500	4,488,000
Total	5,002,500	5,020,800

b. Workplace Standards

	1998-99	1999-00
General Fund	1,780,700	1,834,500
Restricted Funds	146,921,500	148,658,000
Federal Funds	2,828,500	2,828,500
Total	151,530,700	153,321,000

c. Workers Claims

	1998-99	1999-00
Restricted Funds	14,994,000	15,637,000

d. Kentucky Occupational Safety and Health Review Commission

	1998-99	1999-00
Restricted Funds	309,000	319,500
Federal Funds	174,500	174,500
Total	483,500	494,000

TOTAL - LABOR CABINET

	1998-99	1999-00
General Fund	2,298,700	2,367,300
Restricted Funds	166,709,000	169,102,500
Federal Funds	3,003,000	3,003,000
TOTAL	172,010,700	174,472,800

Budget Unit

50. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

	1998-99	1999-00
General Fund	19,000,000	19,000,000
Restricted Funds	149,905,500	152,337,500
Total	168,905,500	171,337,500

TOTAL - LABOR

	1998-99	1999-00
General Fund	21,298,700	21,367,300
Restricted Funds	316,614,500	321,440,000
Federal Funds	3,003,000	3,003,000
TOTAL	340,916,200	345,810,300

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

51. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Budget Units

a. General Administration and Support

	1998-99	1999-00
General Fund	8,703,200	9,026,200
Restricted Funds	352,000	435,500
Federal Funds	2,065,000	2,166,000
Total	11,120,200	11,627,700

b. Environmental Protection

	1998-99	1999-00
General Fund	21,647,200	22,183,800

Restricted Funds	20,196,000	21,336,000
Federal Funds	18,731,500	16,191,500
Total	60,574,100	59,711,300

Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

Included in the above General Fund appropriation is $75,000 each year of the biennium for the annual Commonwealth Cleanup Campaign the fourth week of March.

c. Natural Resources

	1998-99	1999-00
General Fund	13,494,700	13,666,300
Restricted Funds	5,522,500	5,053,500
Federal Funds	2,626,500	2,627,500
Total	21,643,700	21,347,300

Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount in either fiscal year. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

d. Surface Mining Reclamation and Enforcement

	1998-99	1999-00
General Fund	9,922,200	10,188,100
Restricted Funds	5,793,000	5,988,000
Federal Funds	15,808,500	16,196,500
Total	31,523,700	32,372,600

Included in the General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees per KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

e. Abandoned Mine Land Reclamation Projects

	1998-99	1999-00
Federal Funds	22,456,000	22,456,000

The above appropriation represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

	1998-99	1999-00
General Fund	53,767,300	55,064,400
Restricted Funds	31,863,500	32,813,000
Federal Funds	61,687,500	59,637,500
TOTAL	147,318,300	147,514,900

Budget Units

52. KENTUCKY RIVER AUTHORITY

	1998-99	1999-00
General Fund	359,000	369,000
Restricted Funds	1,511,000	1,750,000
Total	1,870,000	2,119,000

Included in the above Restricted Funds appropriation is $194,000 in fiscal year 1998-99 and $388,000 in fiscal year 1999-2000 for debt service for $2,000,000 in previously authorized bonds and $2,000,000 in new bond authorization.

53. ENVIRONMENTAL QUALITY COMMISSION

	1998-99	1999-00

General Fund	251,100	249,800
Restricted Funds	4,000	2,000
Total	255,100	251,800

54. KENTUCKY NATURE PRESERVES COMMISSION

	1998-99	1999-00
General Fund	840,200	786,300
Restricted Funds	637,500	612,500
Federal Funds	25,000	25,000
Total	1,502,700	1,423,800

Included in the above General Fund appropriation is $40,000 in fiscal year 1998-99 and $41,000 in fiscal year 1999-2000 to employ a regional nature preserves manager for the Blanton Forest, Pine Mountain, Hi Lewis, Bad Branch, and Kingdom Come Nature Preserves.

TOTAL - NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

	1998-99	1999-00
General Fund	55,217,600	56,469,500
Restricted Funds	34,016,000	35,177,500
Federal Funds	61,712,500	59,662,500
TOTAL	150,946,100	151,309,500

K. PERSONNEL CABINET

55. PERSONNEL CABINET

Budget Units

a. General Operations

	1998-99	1999-00
General Fund	3,309,400	3,297,100
Restricted Funds	5,358,500	5,741,000
Total	8,667,900	9,038,100

Notwithstanding KRS 18A.015(2), 18A.015(3), and 18A.015(4), the Personnel Cabinet shall collect $2.00 per month per eligible employee in fiscal year 1998-99 and $2.25 per month per eligible employee in fiscal year 1999-2000 from the budgeted premium for life and health insurance from all employers of state employees defined in KRS 18A.225(1)(b) for duly authorized use by the Personnel Cabinet in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's life and health insurance programs.

b. Public Employees Deferred Compensation Authority

	1997-98	1998-99	1999-00
Restricted Funds	350,000	3,552,000	3,692,500

c. Workers' Compensation Benefits and Reserve

	1998-99	1999-00
Restricted Funds	16,872,000	17,666,000

The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary funds are appropriated, subject to the conditions and procedures provided in this Act.

TOTAL - PERSONNEL CABINET

	1997-98	1998-99	1999-00
General Fund		3,309,400	3,297,100
Restricted Funds	350,000	25,782,500	27,099,500
TOTAL	350,000	29,091,900	30,396,600

L. POSTSECONDARY EDUCATION

Budget Units

56. COUNCIL ON POSTSECONDARY EDUCATION

	1998-99	1999-00

General Fund	53,201,200	98,831,400
Federal Funds	4,057,000	4,063,500
Total	57,258,200	102,894,900

It is the intent of the General Assembly that the universities participating in the Regional Postsecondary Education Centers (Central - Western Kentucky University; Northeast - Morehead State University; South - Western Kentucky University; Southeast - Eastern Kentucky University; and West - Murray State University) funded through the Physical Facilities Trust Fund and the Technology Initiative Trust Fund shall analyze student and community needs within their regional service areas to determine the most appropriate facilities to meet the academic and student program needs of the region. Each university shall receive approval from the Council on Postsecondary Education regarding the use of the Postsecondary Education Centers to meet the education and facility needs of their respective regions. It is the intent of the General Assembly that the Council on Postsecondary Education encourage each of the universities identified above to examine opportunities for collaboration in the planning, design, and utilization of the facilities in conjunction with the Kentucky Community and Technical College System.

The Postsecondary Education Improvement Act of 1997 fundamentally changed the funding mechanism for the postsecondary enterprise in the Commonwealth of Kentucky. In recognition that the limited time between the enactment of the Postsecondary Education Improvement Act of 1997 and the commencement of the 1998-2000 biennial budget process did not allow for sufficient time for the full consideration of programs not incorporated in the trust funds recommendation, the above General Fund appropriation for the Council on Postsecondary Education includes the following program items. Included in the above General Fund appropriation is $450,000 in fiscal year 1999-2000 to support a full complement of faculty and operational costs associated with the University of Kentucky College of Engineering's implementation of undergraduate engineering programs in Paducah. Included in the above General Fund appropriation is $1,470,000 in fiscal year 1998-99 and $1,500,000 in fiscal year 1999-2000 to replace Robinson Forest Trust funds previously used to support the Lees College Branch of Hazard Community College. Included in the above General Fund appropriation is $182,600 in each fiscal year to expand the services of the Labor Management Center at the University of Louisville's College of Business and Public Administration. Included in the above General Fund appropriation is $180,000 in fiscal year 1998-99 and $349,900 in fiscal year 1999-2000 to expand the University of Louisville's Family Residency Program in Glasgow. Included in the above General Fund appropriation is $30,000 in fiscal year 1998-99 for an analysis of student demand and the feasibility of a collaborative social work program at the University of Louisville with one or more institutions in the Louisville metropolitan area. This study will identify funding sources if such a program is deemed appropriate.

Included in the above General Fund appropriation is $125,000 in fiscal year 1998-99 and $180,000 in fiscal year 1999-2000 to be distributed to Murray State University for the purpose of making lease purchase payments on the Crisp Center.

Included in the above General Fund appropriation is $1,026,000 in fiscal year 1998-99 and $1,664,400 in fiscal year 1999-2000 to fund the Osteopathic Medicine Scholarship Program to provide scholarships to students of the Pikeville College of Osteopathic Medicine in an amount which will reduce the tuition cost to these students to the same rate paid by in-state medical students at the University of Kentucky or the University of Louisville. Included in the above General Fund appropriation is $2,396,500 in fiscal year 1998-99 and $2,504,500 in fiscal year 1999-2000 for the Experimental Program to Stimulate Competitive Research.

Included in the above General Fund appropriation is $215,000 in fiscal year 1998-99 and $221,500 in fiscal year 1999-2000 for the Kentucky Commission on Community Volunteerism and Service, which is attached to the Council on Postsecondary Education for administrative purposes.

Included in the above General Fund appropriation is $40,000,000 in fiscal year 1998-99 and $84,000,000 in fiscal year 1999-2000 for the Strategic Investment and Incentive Funding Program as established by the Postsecondary Improvement Act of 1997. The appropriation shall be made to each of the following trust funds in the amounts listed below for the purposes and uses established by the Postsecondary Improvement Act of 1997.

a. Research Challenge Trust Fund

	1998-99	1999-00
General Fund	6,000,000	6,000,000

b. Regional University Excellence Trust Fund

	1998-99	1999-00
General Fund	6,000,000	6,000,000

c. Technology Initiative Trust Fund

	1998-99	1999-00
General Fund	8,000,000	12,000,000

Included in the above fiscal year 1999-2000 General Fund appropriation to the Technology Initiative Trust Fund is debt service as indicated below to support the issuance of bonds by the State Property and Buildings Commission to partially finance the planning, design, and construction of the Kentucky Community and Technical College System (KCTCS) projects identified below and authorized in Part II of this Act: Central Regional Postsecondary Education Center - debt service of $478,000; Northeast Regional Postsecondary Education Center - debt service of $478,000; South Regional Postsecondary Education Center - debt service of $336,000; Southeast Regional Postsecondary Education Center - debt service of $478,000; West Regional Postsecondary Education Center - debt service of $478,000; and KCTCS Automated Administrative System - debt service of $147,000.

Also included in the above fiscal year 1999-2000 General Fund appropriation to the Technology Initiative Trust Fund is $5,548,000 for debt service to support the issuance of bonds by the State Property and Buildings Commission for technology projects to be identified by the Council on Postsecondary Education as necessary for the implementation of the Commonwealth Virtual University.

d. Physical Facilities Trust Fund

	1998-99	1999-00
General Fund		29,000,000

Included in the above fiscal year 1999-2000 General Fund appropriation to the Physical Facilities Trust Fund is debt service as indicated below to support the issuance of bonds by the State Property and Buildings Commission to finance the planning, design and construction of the projects and capital construction pools identified below and authorized in Part II of this Act: Northern Kentucky University (NKU) - Natural Science Building - debt service of $3,466,000; Morehead State University (MoSU) - Breckinridge Hall Renovation - debt service of $1,330,000; University of Kentucky (UK) - Mechanical Engineering Building - debt service of $1,862,000; Murray State University (MuSU) - Carr Health/Business/Education - debt service of $967,000; Eastern Kentucky University (EKU) - Student Service/Classroom Building - debt service of $1,900,000; Kentucky State University (KSU) - Student Center Renovation/Expansion - debt service of $785,000; University of Louisville (UL) - Research Building (Belknap Campus) - debt service of $3,043,000; Western Kentucky University (WKU) - Postsecondary Education Improvement Act of 1997 Facility - debt service of $1,758,000; UK - Aging/Allied Health Building Phase II - debt service of $1,900,000; KCTCS - Deferred Maintenance and Government Mandates Pool - debt service of $420,000; Council on Postsecondary Education (CPE) - Deferred Maintenance and Government Mandates Pool - debt service of $1,958,000; CPE - Research Equipment and Lab Replacement or Acquisition Pool - debt service of $4,856,000; KCTCS - Automated Administrative System - debt service of $166,000; KCTCS - Central Regional Postsecondary Education Center - Phase I - debt service of $541,000; KCTCS - Hazard Community College Classroom Building Phase II - debt service of $416,000; KCTCS - Kentucky Tech College of Arts and Crafts - debt service of $265,000; KCTCS - Clinton County Regional Technology Center - debt service of $340,000; KCTCS - Danville Regional Technology Center - Phase I - debt service of $448,000; KCTCS - Madisonville Community College Science/Technical Classroom Building - debt service of $279,000; KCTCS - Maysville Community College/Kentucky Tech New Technology Center - debt service of $164,000; KCTCS - Shelby County New Kentucky Tech/Jefferson Community College Extension - debt service of $687,000; KCTCS - Somerset Community College/Kentucky Tech Complex - debt service of $654,000; KCTCS - South Regional Postsecondary Education Center - Phase I - debt service of $258,000; and KCTCS - Southeast Regional Postsecondary Education Center Phase I - debt service of $524,000.

e. Workforce Development Trust Fund

	1998-99	1999-00
General Fund	6,000,000	6,000,000

Funding is provided to further cooperative efforts among the community colleges and the technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs. In addition, funding may be used for a base funding equity adjustment for the technical institutions formerly a part of the Kentucky Tech System, if necessary, pursuant to an analysis of funding equity by the Council on Postsecondary Education.

f. Student Financial Aid and Advancement Trust Fund

	1998-99	1999-00
General Fund	14,000,000	25,000,000

Included in the above appropriation is $14,000,000 in fiscal year 1998-99 and $15,000,000 in fiscal year 1999-2000 to fully fund the College Access Program, the Kentucky Tuition Grants Program and the Teacher Scholarship Program administered by the Kentucky Higher Education Assistance Authority. In addition, included in the above appropriation is $10,000,000 in fiscal year 1999-2000 to begin implementation of a new merit based financial aid program pursuant to enabling legislation to be enacted by the 1998 General Assembly. Funding shall not be allotted unless enabling legislation is enacted by the 1998 General Assembly, but shall lapse at the close of the fiscal year. If enabling legislation is enacted by the 1998 General Assembly, the appropriation shall be expended according to the provisions of the enabling legislation.

57. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	1997-98	1998-99	1999-00
General Fund		30,603,200	30,603,200
Restricted Funds	452,000	14,844,000	15,059,500

Federal Funds		325,000	325,000
Total	452,000	45,772,200	45,987,700

Included in the above General Fund appropriation is $19,452,700 in fiscal year 1998-99 and $19,452,700 in fiscal year 1999-2000 for College Access Program (CAP) grants. Nothing in the foregoing shall be construed to limit the Authority's capability to use these funds to match Federal Funds, make grant awards, or promulgate administrative regulations that conform to requirements of federal laws and regulations for full participation in federally-funded student financial assistance programs. Included in the above Restricted Funds appropriation is $959,000 in fiscal year 1998-99 and $569,000 in fiscal year 1999-2000 for the Teacher Scholarship Program.

The General Fund appropriation shall be used solely for the purpose of making awards to students.

Any General Fund appropriation unexpended in fiscal years 1997-98 or 1998-99 to the Kentucky Higher Education Assistance Authority shall not lapse but shall be carried forward into the next fiscal year, notwithstanding KRS 45.229.

58. EASTERN KENTUCKY UNIVERSITY

	1998-99	1999-00
General Fund	63,825,700	65,726,700
Restricted Funds	85,446,100	88,145,900
Federal Funds	21,414,800	21,414,800
Total	170,686,600	175,287,400

Included in the above General Fund appropriation is $5,309,600 in fiscal year 1998-99 and $5,317,400 in fiscal year 1999-2000 for debt service for previously issued bonds.

59. KENTUCKY STATE UNIVERSITY

	1998-99	1999-00
General Fund	20,364,100	20,872,800
Restricted Funds	15,893,000	16,386,000
Federal Funds	11,617,300	11,942,500
Total	47,874,400	49,201,300

Included in the above General Fund appropriation is $2,223,800 in fiscal year 1998-99 and $2,224,600 in fiscal year 1999-2000 for debt service for previously issued bonds.

60. MOREHEAD STATE UNIVERSITY

	1998-99	1999-00
General Fund	36,539,600	37,971,700
Restricted Funds	34,597,000	36,164,000
Federal Funds	33,173,500	35,555,000
Total	104,310,100	109,690,700

Included in the above General Fund appropriation is $2,129,000 in fiscal year 1998-99 and $2,128,400 in fiscal year 1999-2000 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $572,000 in fiscal year 1999-2000 for debt service.

61. MURRAY STATE UNIVERSITY

	1998-99	1999-00
General Fund	45,694,300	45,024,100
Restricted Funds	47,564,500	49,372,000
Federal Funds	6,819,000	7,214,500
Total	100,077,800	101,610,600

Included in the above General Fund appropriation is $3,392,700 in fiscal year 1998-99 and $1,546,000 in fiscal year 1999-2000 for debt service for previously issued bonds.

62. NORTHERN KENTUCKY UNIVERSITY

	1998-99	1999-00
General Fund	33,902,900	34,721,700
Restricted Funds	46,341,600	48,500,800
Federal Funds	4,761,500	4,761,500

Total	85,006,000	87,984,000

Included in the above General Fund appropriation is $5,054,400 in fiscal year 1998-99 and $5,065,400 in fiscal year 1999-2000 for debt service for previously issued bonds.

63. UNIVERSITY OF KENTUCKY

	1998-99	1999-00
General Fund	286,706,700	290,835,300
Restricted Funds	683,978,500	703,883,000
Federal Funds	81,237,500	82,831,000
Total	1,051,922,700	1,077,549,300

Included in the above General Fund appropriation is $12,701,500 in fiscal year 1998-99 and $8,647,700 in fiscal year 1999-2000 for debt service for previously issued bonds.

Included in the above General fund appropriation is $6,265,200 in fiscal year 1998-999 and $6,440,600 in fiscal year 1999-2000 to support the operations of the Lexington Community College.

Included in the above Restricted Funds appropriation is $9,667,000 in fiscal year 1998-999 and $9,681,500 in fiscal year 1999-2000 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $4,149,000 in fiscal year 1998-999 and $4,167,000 in fiscal year 1999-2000 to support the operations of the Lexington Community College.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 1998. Allotment of this appropriation is contingent upon certification by the Council on Postsecondary Education that necessary conditions have been met.

64. UNIVERSITY OF LOUISVILLE

	1998-99	1999-00
General Fund	158,097,500	163,357,500
Restricted Funds	222,614,500	229,174,500
Federal Funds	25,121,000	25,121,500
Total	405,833,000	417,653,500

Included in the above General Fund appropriation is $11,363,100 in fiscal year 1998-99 and $11,366,700 in fiscal year 1999-2000 for debt service for previously issued bonds. Also included in the above General Fund appropriation is $15,948,500 in fiscal year 1998-99 and $16,506,700 in fiscal year 1999-2000 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement.

The General Fund appropriation related to the Quality and Charity Care Trust Agreement in the first year of the biennium shall continue into the second year for this purpose, notwithstanding KRS 45.229. Any unused portion of the General Fund appropriation relating to the Quality and Charity Care Trust Agreement shall lapse to the credit of the General Fund at the end of fiscal year 1999-2000.

Included in the above General Fund appropriation is $300,000 in each fiscal year for the Engineering Education Enhancement Program to be used by the professional engineering school in acquiring needed academic equipment, developing and implementing programs to attract or retain outstanding faculty, and developing programs to assist research activities by faculty. The General Fund appropriation related to Engineering Education Enhancement is contingent upon the University raising and committing to eligible engineering school initiatives $2 in nonstate funds for each $1 in state General Fund appropriation. Eligible nonstate funds must be raised after July 1, 1998. Allotment of this appropriation is contingent upon certification by the Council on Postsecondary Education that necessary conditions have been met.

65. WESTERN KENTUCKY UNIVERSITY

	1998-99	1999-00
General Fund	58,072,500	59,589,500
Restricted Funds	63,188,500	65,245,500
Federal Funds	15,200,000	15,200,000
Total	136,461,000	140,035,000

Included in the above General Fund appropriation is $3,932,200 in fiscal year 1998-99 and $3,936,100 in fiscal year 1999-2000 for debt service for previously issued bonds.

66. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

	1998-99	1999-00
General Fund	156,526,900	162,843,400
Restricted Funds	88,648,500	91,035,500
Federal Funds	37,794,000	38,271,500
Total	282,969,400	292,150,400

Included in the above General Fund appropriation is $10,613,400 in fiscal year 1998-99 and $10,645,900 in fiscal year 1999-2000 for debt service for previously issued bonds.

Included in the above General Fund appropriation is $956,000 in fiscal year 1999-2000 for debt service.

TOTAL - POSTSECONDARY EDUCATION

	1997-98	1998-99	1999-00
General Fund		943,534,600	1,010,377,300
Restricted Funds	452,000	1,303,116,200	1,342,966,700
Federal Funds		241,520,600	246,700,800
TOTAL	452,000	2,488,171,400	2,600,044,800

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Units

67. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

	1998-99	1999-00
General Fund	399,900	411,900
Restricted Funds	1,420,500	1,445,500
Federal Funds	351,000	351,000
Total	2,171,400	2,208,400

68. ALCOHOLIC BEVERAGE CONTROL

	1997-98	1998-99	1999-00
General Fund	340,500	2,526,900	2,622,400
Restricted Funds		802,500	787,500
Total	340,500	3,329,400	3,409,900

The Department shall receive funds from the Department of Agriculture and cooperate with the Department of Agriculture in order to implement laws relating to the sale and use of tobacco products, pursuant to KRS 438.330.

69. FINANCIAL INSTITUTIONS

	1998-99	1999-00
Restricted Funds	9,556,000	9,807,500

Included in the above appropriation is a transfer of $2,500,000 in each fiscal year to the General Fund Surplus Account, notwithstanding KRS 287.485.

70. KENTUCKY RACING COMMISSION

	1997-98	1998-99	1999-00
General Fund	350,000	1,419,100	1,356,900
Restricted Funds		14,017,000	13,719,500
Total	350,000	15,436,100	15,076,400

Notwithstanding KRS 230.217(3), no guaranteed General Fund support for an annual Breeders' Award Fund beginning balance of $3,750,000 is provided in each fiscal year.

71. HOUSING, BUILDINGS AND CONSTRUCTION

	1998-99	1999-00
General Fund	3,480,500	3,576,800
Restricted Funds	25,409,500	27,426,500
Total	28,890,000	31,003,300

Under the provisions of the Firefighters Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified firefighter's annual base salary from the Firefighters Foundation Program Fund, to be paid to each firefighter in addition to his regular salary as prescribed by KRS 95A.250. The supplemental payments per qualified professional firefighters shall increase to $2,750 in fiscal year 1998-99 and $3,000 in fiscal year 1999-2000. As prescribed by KRS 95A.262, an annual allotment is provided for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and all other organized volunteer fire departments recognized by the Department of Housing, Buildings and Construction as fire departments operated and maintained on a nonprofit basis. The State Aid Grants shall increase to $6,500 in fiscal year 1998-99 and $7,500 in fiscal year 1999-2000. Notwithstanding KRS 136.392, the power of the Secretary of the Revenue Cabinet to adjust the insurance surcharge rate is suspended. Notwithstanding KRS 42.190 and 95A.220(2), all funds remaining at the end of fiscal year 1998-99 and fiscal year 1999-2000 in accounts established pursuant to KRS 95A.220(1) and 95A.262 shall not lapse.

72. INSURANCE

a. General Operations

	1998-99	1999-00
Restricted Funds	14,051,000	14,639,500

Notwithstanding KRS 304.2-400(3), all funds remaining at the end of fiscal year 1998-99 and fiscal year 1999-2000 shall not lapse.

b. Health Purchasing Alliance

	1998-99	1999-00
Restricted Funds	8,523,000	8,567,000
TOTAL - INSURANCE	22,574,000	23,206,500

73. MINES AND MINERALS

	1998-99	1999-00
General Fund	10,209,300	9,895,400
Restricted Funds	810,000	810,000
Federal Funds	629,500	591,000
Total	11,648,800	11,296,400

Notwithstanding KRS 353.590, the following fee shall be charged: oil gas permit transfer-$25.

74. PUBLIC ADVOCACY

	1997-98	1998-99	1999-00
General Fund		16,137,100	16,682,100
Restricted Funds	317,700	3,689,000	3,895,000
Federal Funds		1,075,000	1,128,000
Total	317,700	20,901,100	21,705,100

Included in the above appropriation are additional Restricted Funds for the Grants to Counties Program for fiscal year 1997-98.

75. PUBLIC SERVICE COMMISSION

	1998-99	1999-00
General Fund	9,177,400	8,656,400
Restricted Funds	22,500	22,500
Federal Funds	219,000	229,000
Total	9,418,900	8,907,900

Included in the above General Fund appropriation is $109,000 in fiscal year 1999-2000 for debt service for the issuance of additional bonds for the new office building authorized by the 1996 General Assembly.

Also included in the above General Fund appropriation is $300,000 in fiscal year 1998-99 to support a comprehensive study of the taxation of public service companies that supply utility service to the citizens of the Commonwealth. These funds are generated from the millage surcharge imposed on utility companies pursuant to KRS 278.130. Any unexpended balance on June 30,1999, shall be continued and appropriated for expenditure into fiscal year 1999-2000.

76. SECRETARY

a. General Operations

	1998-99	1999-00
Restricted Funds	1,483,000	1,554,000

b. Petroleum Storage Tank Environmental Assurance Fund

	1998-99	1999-00
Restricted Funds	40,353,500	40,830,500
TOTAL - SECRETARY	41,836,500	42,384,500

77. BOARD OF TAX APPEALS

	1998-99	1999-00
General Fund	410,200	422,000

TOTAL - PUBLIC PROTECTION AND REGULATION CABINET

	1997-98	1998-99	1999-00
General Fund	690,500	43,760,400	43,623,900
Restricted Funds	317,700	120,137,500	123,505,000
Federal Funds		2,274,500	2,299,000
TOTAL	1,008,200	166,172,400	169,427,900

N. REVENUE

Budget Units

78. REVENUE CABINET

	1998-99	1999-00
General Fund	58,147,900	60,236,900
Road Fund	1,352,000	1,352,000
Restricted Funds	2,928,000	2,722,000
Federal Funds	40,000	40,000
Total	62,467,900	64,350,900

Notwithstanding KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 1998-2000 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund, including the administration of training programs, pay supplements prescribed by statute, and debt service for the respective program funds specified in KRS 15.410 to 15.510, KRS 42.190, and KRS 95A.220 in fiscal year 1998-99 and fiscal year 1999-2000. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carry forwards from fiscal years 1998-99 and 1999-2000 provided by the General Assembly in this Act.

The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax programs within the Revenue Cabinet and are to be used exclusively for that purpose. In accordance with the provisions of KRS 134.400, the administration of the Delinquent Tax Fund is in the Department of Property Valuation. Proceeds shall be deposited to this account except that the first $100,000 shall be deposited exclusively to the General Fund.

Notwithstanding KRS 365.390, included in the above Restricted Funds appropriation is $111,000 in fiscal year 1998-99 and $110,500 in fiscal year 1999-2000 from the accumulated balance in the Cigarette Enforcement Fund account for the administrative activities of the Revenue Cabinet.

Notwithstanding KRS 136.180, included in the above Restricted Funds appropriation is $189,000 in fiscal year 1998-99 and $89,500 in fiscal year 1999-2000 from the accumulated balance in the Public Service Corporation Assessment Fund account for the administrative activities of the Revenue Cabinet.

79. PROPERTY VALUATION ADMINISTRATORS

	1998-99	1999-00
General Fund	21,902,000	22,972,500
Restricted Funds	2,387,500	2,549,500
Total	24,289,500	25,522,000

TOTAL - REVENUE CABINET

	1998-99	1999-00
General Fund	80,049,900	83,209,400
Road Fund	1,352,000	1,352,000
Restricted Funds	5,315,500	5,271,500

Federal Funds		40,000	40,000
TOTAL		86,757,400	89,872,900

O. TOURISM DEVELOPMENT CABINET

Budget Units

80. OFFICE OF THE SECRETARY

	1998-99	1999-00
General Fund	1,232,800	1,276,100

Included in the General Fund appropriation is $270,000 in each fiscal year for Outdoor Drama Grants.

81. BREAKS INTERSTATE PARK

	1997-98	1998-99	1999-00
General Fund	30,000	200,000	200,000

An appropriation up to $200,000 in each fiscal year is provided contingent upon the Commonwealth of Virginia providing an appropriation which would be matched dollar for dollar up to the maximum amount. Any portion not matched by the Commonwealth of Virginia shall lapse to the General Fund at the close of each fiscal year.

82. TRAVEL DEVELOPMENT

	1997-98	1998-99	1999-00
General Fund		6,992,400	7,177,800
Restricted Funds		4,000	4,000
Federal Funds	50,000		
Total	50,000	6,996,400	7,181,800

Included in the General Fund appropriation is $2,592,000 in fiscal year 1998-99 and $2,655,000 in fiscal year 1999-2000 for the Comprehensive Advertising Contract and $800,000 in each fiscal year for the Local and Regional Matching Funds Program.

83. PARKS

	1997-98	1998-99	1999-00
General Fund	1,837,000	26,851,800	27,763,600
Restricted Funds		44,483,000	45,684,500
Total	1,837,000	71,334,800	73,448,100

Included in the above General Fund appropriation is $25,000 each fiscal year of the biennium for appropriate upgrades, as determined by the Commissioner of Parks, of Professional Golfers' Association class A professionals at the State Parks 18 hole golf courses.

Included in the above General Fund appropriation is $25,000 in fiscal year 1998-99 for a study of the Little Shepherd's Trail from Junction U.S. 119 in Letcher County to Kingdom Come State Park, and $50,000 each fiscal year of the biennium for the Glasgow Highland Games in preparation for the 2001 International Scottish Games.

84. KENTUCKY HORSE PARK

	1998-99	1999-00
General Fund	1,631,500	1,632,000
Restricted Funds	3,859,000	3,982,000
Total	5,490,500	5,614,000

85. KENTUCKY STATE FAIR BOARD

	1998-99	1999-00
General Fund	407,000	407,000
Restricted Funds	26,129,000	27,702,000
Total	26,536,000	28,109,000

Included in the Restricted Funds appropriation is $371,000 in each year of the biennium for debt service for Project 55.

Included in the General Fund appropriation is $407,000 in each year of the biennium for the North American International Livestock Exposition.

86. FISH AND WILDLIFE RESOURCES

	1998-99	1999-00
Restricted Funds	23,262,000	24,492,500
Federal Funds	7,164,000	7,331,500
Total	30,426,000	31,824,000

TOTAL-TOURISM DEVELOPMENT CABINET

	1997-98	1998-99	1999-00
General Fund	1,867,000	37,315,500	38,456,500
Restricted Funds		97,737,000	101,865,000
Federal Funds	50,000	7,164,000	7,331,500
TOTAL	1,917,000	142,216,500	147,653,000

P. TRANSPORTATION CABINET

87. TRANSPORTATION CABINET

Budget Units

a. Air Transportation

	1998-99	1999-00
General Fund	2,201,000	2,267,000
Restricted Funds	29,500	30,500
Federal Funds	359,000	359,000
Total	2,589,500	2,656,500

b. Revenue Sharing

	1998-99	1999-00
Road Fund	204,091,500	208,717,000

1. Included in the above Road Fund appropriation is $77,188,000 in fiscal year 1998-99 and $78,946,000 in fiscal year 1999-2000 for the County Road Aid program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $54,900 in fiscal year 1998-99 and $56,700 in fiscal year 1999-2000 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

2. Included in the above Road Fund appropriation is $93,573,000 in fiscal year 1998-99 and $95,702,000 in fiscal year 1999-2000 for the Rural Secondary program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $66,600 in fiscal year 1998-99 and $68,800 in fiscal year 1999-2000 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center. Notwithstanding KRS 177.320(1), $2,500,000 in fiscal year 1998-99 and $2,000,000 in fiscal year 1999-2000 is appropriated for the support of the Phase II County Bridge Program. Notwithstanding KRS 45.229, the moneys appropriated for the Phase II County Bridge Program in fiscal years 1997-98 and 1998-99 shall not lapse but shall carry forward into the next fiscal year.

3. Included in the above Road Fund appropriation is $32,455,500 in fiscal year 1998-99 and $33,194,000 in fiscal year 1999-2000 for the Municipal Road Aid program in accordance with KRS 177.365 to 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $23,100 in fiscal year 1998-99 and $23,900 in fiscal year 1999-2000 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

4. Included in the above Road Fund appropriation is $875,000 in each fiscal year for the Energy Recovery Road Fund in accordance with KRS 177.977 to 177.981.

c. Rail Transportation

	1998-99	1999-00
General Fund	69,500	72,000

The above General Fund appropriation is for the Kentucky Railroad Commission.

d. Public Transportation

	1998-99	1999-00
General Fund	3,916,000	4,007,000
Restricted Funds	48,038,500	50,068,500
Federal Funds	5,996,500	5,102,000
Total	57,951,000	59,177,500

Included in the above General Fund appropriation is $2,500,000 in each fiscal year for nonpublic school transportation.

Included in the above Federal Funds appropriation is $1,000,000 in fiscal year 1998-99 to provide capital assistance to transit authorities around the state.

e. Highways

	1998-99	1999-00
Restricted Funds	63,328,000	27,065,000
Federal Funds	398,599,500	382,602,500
Road Fund	533,648,500	563,045,500
Bond Funds	100,000,000	105,000,000
Total	1,095,576,000	1,077,713,000

1. Included in the above Road Fund appropriation is $239,564,700 in fiscal year 1998-99 and $264,002,200 in fiscal year 1999-2000 for the State Funded Construction Program.

Included in the State Funded Construction Program is $61,300,000 in fiscal year 1998-99 and $63,000,000 in fiscal year 1999-2000 from the Road Fund for the State Resurfacing Program.

Included in the State Funded Construction Program is $450,000 in each fiscal year from the Road Fund for the Specialized Contracts account.

Included in the State Funded Construction Program is $142,814,700 in fiscal year 1998-99 and $165,552,200 in fiscal year 1999-2000 from the Road Fund for state construction projects in the 1998-2000 Biennial Highway Construction Program.

2. Included in the above Bond Funds appropriation in fiscal year 1999-2000 is $5,000,000 in Investment Income Earnings from the issuance of the $200,000,000 in Economic Development Road Revenue Bonds authorized herein.

3. Notwithstanding KRS 176.460(1), projects in the enacted 1998-99 Biennial Highway Construction Program listed as fiscal year 1997-98 are so listed in order to continue their current authorization into the 1998-2000 biennium, and are reauthorized in this Act.

Included in the State Funded Construction Program is $35,000,000 in each fiscal year for the Highway Construction Contingency Account.

4. Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 1998-99 and $290,000 in fiscal year 1999-2000 for the Kentucky Transportation Center.

5. Notwithstanding KRS 45.229, any unexpended balance remaining at the close of the 1997-98 fiscal year in the Snow and Ice Removal Reserve Fund, as reestablished by the 1996 General Assembly, shall not lapse, but shall continue into fiscal year 1998-99 for the same purpose.

No funds shall be expended from the Snow and Ice Removal Reserve Fund until the Transportation Cabinet's cumulative snow and ice removal expenditures exceed $11,500,000 in any fiscal year of the 1998-2000 biennium. If this provision is implemented, the Secretary of the Transportation Cabinet shall certify to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation the documented need and usage of this fund.

Notwithstanding KRS 45.229, any unexpended balance remaining in the Snow and Ice Removal Reserve Fund at the close of the 1998-99 fiscal year shall not lapse, but shall continue into fiscal year 1999-2000.

6. Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,000,000 in each fiscal year from the sale of surplus equipment to purchase new highway equipment.

7. Included in the above Restricted Funds appropriation is $12,877,400 in fiscal year 1998-99 in Investment Income Earnings from previously authorized Economic Development Road Revenue Bonds.

f. Vehicle Regulation

	1997-98	1998-99	1999-00
Restricted Funds		2,472,500	2,572,000
Federal Funds		1,500,000	1,500,000
Road Fund	2,300,000	27,408,000	29,304,000
Total	2,300,000	31,380,500	33,376,000

Included in the above Road Fund appropriation is $2,300,000 in fiscal year 1997-98 to support issuance of license plates. Notwithstanding KRS 45.229, any unexpended balance remaining from the appropriation for license plates at the close of fiscal year 1997-98 shall not lapse but shall continue into fiscal year 1998-99.

g. Debt Service

	1998-99	1999-00
Road Fund	153,027,500	168,633,500

1. Included in the above Road Fund appropriation is $14,589,500 in fiscal year 1998-99 and $3,478,000 in fiscal year 1999-2000 for toll road lease rental payments.

2. Included in the above Road Fund appropriation is $43,670,000 in fiscal year 1998-99 and $53,447,000 in fiscal year 1999-2000 for Resource Recovery Road lease rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

3. Included in the above Road Fund appropriation is $94,768,000 in fiscal year 1998-99 and $92,714,500 in fiscal year 1999-2000 for Economic Development Road lease rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Turnpike Authority of Kentucky.

4. Included in the above Road Fund appropriation is $18,994,000 in fiscal year 1999-2000 for Economic Development Road lease rental payments to the Turnpike Authority of Kentucky relating to projects financed by $200,000,000 in Economic Development Road Revenue Bonds hereby authorized by the General Assembly to be issued in the 1998-2000 fiscal biennium for the payment of the cost of the Economic Development Road Projects.

5. Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Turnpike Authority shall be transferred to the State Construction account.

6. Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 1998-2000 biennium.

h. General Administration and Support

	1998-99	1999-00
Restricted Funds	21,198,000	22,142,000
Road Fund	56,916,500	63,507,000
Total	78,114,500	85,649,000

Included in the above Road Fund appropriation is $6,468,000 in fiscal year 1999-2000 for debt service for newly-authorized bonds to construct a new Transportation Cabinet Office Building.

Included in the above Road Fund appropriation is $70,000 in fiscal year 1998-99 to support the further development of the Six Year Road Plan Information System and other highway related information that is directed by the statutory budget memorandum.

i. Judgments

Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

Notwithstanding KRS 45.229, any funds not expended by June 30, 1998, shall not lapse, and shall carry forward to fiscal year 1998-99 and remain available throughout the 1998-2000 biennium.

TOTAL - TRANSPORTATION CABINET

	1997-98	1998-99	1999-00
General Fund		6,186,500	6,346,000
Restricted Funds		135,066,500	101,878,000
Federal Funds		406,455,000	389,563,500
Road Fund	2,300,000	975,092,000	1,033,207,000
Bond Funds		100,000,000	105,000,000
TOTAL	2,300,000	1,622,800,000	1,635,994,500

Q. WORKFORCE DEVELOPMENT CABINET

Budget Units

88. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	1998-99	1999-00
General Fund	2,502,000	2,553,500
Restricted Funds	5,247,500	5,474,000
Federal Funds	5,722,500	2,012,500
Total	13,472,000	10,040,000

89. STATE BOARD FOR ADULT AND TECHNICAL EDUCATION

	1998-99	1999-00
General Fund	30,000	30,500

90. TECHNICAL EDUCATION

	1997-98	1998-99	1999-00
General Fund	294,000	19,045,100	19,315,700
Restricted Funds		18,654,500	19,416,000
Federal Funds	450,000	15,650,000	15,200,000
Total	744,000	53,349,600	53,931,700

Included in the above General Fund appropriation is $1,873,000 in each fiscal year for equipment procurement. Included in the above General Fund appropriation is $250,000 in each fiscal year for the expanded programs at the Henderson County Vocational Area Center.

91. ADULT EDUCATION AND LITERACY

	1998-99	1999-00
General Fund	12,411,200	12,779,400
Restricted Funds	874,000	915,500
Federal Funds	8,243,000	8,643,000
Total	21,528,200	22,337,900

92. VOCATIONAL REHABILITATION

	1998-99	1999-00
General Fund	9,421,100	9,672,800
Restricted Funds	2,391,500	2,406,500
Federal Funds	37,651,500	39,069,500
Total	49,464,100	51,148,800

93. DEPARTMENT FOR THE BLIND

	1998-99	1999-00
General Fund	2,055,200	2,131,100
Restricted Funds	3,275,000	3,168,000
Federal Funds	6,871,000	6,457,500
Total	12,201,200	11,756,600

94. STATE BOARD FOR PROPRIETARY EDUCATION

	1998-99	1999-00
Restricted Funds	110,500	116,000

95. JOB TRAINING COORDINATING COUNCIL

	1998-99	1999-00
Federal Funds	132,500	139,000

96. TEACHERS' RETIREMENT-EMPLOYER'S CONTRIBUTION

	1998-99	1999-00
General Fund	4,313,500	4,530,500

The above General Fund appropriation includes the employer match for salaries paid to Workforce Development Cabinet employees who participate in the Teachers' Retirement System. This match shall be forwarded to the Teachers' Retirement System pursuant to KRS 161.560.

97. TRAINING AND REEMPLOYMENT

	1998-99	1999-00
Restricted Funds	17,500	17,500
Federal Funds	36,807,000	40,493,000
Total	36,824,500	40,510,500

98. EMPLOYMENT SERVICES

	1998-99	1999-00
General Fund	581,900	599,100
Restricted Funds	5,889,500	6,021,000
Federal Funds	298,008,000	302,773,000
Total	304,479,400	309,393,100

Notwithstanding KRS 341.835, funds from the Unemployment Insurance Penalty and Interest Account shall be used during each fiscal year by the Department for Employment Services to operate employment and training programs.

Included in the above Restricted Funds appropriation is $4,389,500 in fiscal year 1998-99 and $4,521,000 in fiscal year 1999-2000 which shall be transferred from the Cabinet for Families and Children to provide job placement and training services to Temporary Assistance for Needy Families (TANF) recipients through a contractual agreement.

There is appropriated out of the Federal Funds made available to Kentucky under Section 903 of the Social Security Act, as amended, the sum of $1,500,000 during the 1998-2000 biennium to be used under the direction of the Department for Employment Services for the purpose of administration of its unemployment compensation law and public employment offices.

TOTAL - WORKFORCE DEVELOPMENT CABINET

	1997-98	1998-99	1999-00
General Fund	294,000	50,360,000	51,612,600
Restricted Funds		36,460,000	37,534,500
Federal Funds	450,000	409,085,500	414,787,500
TOTAL	744,000	495,905,500	503,934,600

PART II

CAPITAL PROJECTS BUDGET

Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 1998-2000 biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

A. GOVERNMENT OPERATIONS

Budget Unit	1998-99	1999-00
1. Attorney General		
a. Franklin County - Lease		
2. Unified Prosecutorial System		
a. Jefferson County - Lease		
3. Department of Military Affairs		
a. Environmental Pool		
Federal Funds	771,000	957,000
Investment Income	50,000	50,000
Total	821,000	1,007,000
b. Facilities Building - Reauthorization		
c. Maintenance Pool - Bluegrass Station		
Restricted Funds	762,000	1,324,000
d. Major Maintenance Pool		
Investment Income	950,000	950,000
e. Re-Roof Building 6 (4 Bays) - Bluegrass Station		
Restricted Funds	749,000	
f. Training Complex Development, Phase III		
Federal Funds - Additional		5,176,000
g. Aircraft Maintenance Pool		
Investment Income	300,000	300,000
h. Emergency Operations Center (EOC) Automation Upgrade		
Federal Funds	2,395,000	

i. Two-Way Communications for Statewide Emergency Responses		
Bond Funds	1,200,000	
4. Department of Local Government		
a. Local Match Participation Program for Flood Control		
Bond Funds	5,000,000	
5. Kentucky Retirement Systems		
a. Enhanced Imaging Processor		
Restricted Funds	348,000	
b. Franklin County - Lease		

B. CABINET FOR ECONOMIC DEVELOPMENT

Budget Unit	1998-99	1999-00
1. Economic Development Projects		
a. Economic Development Bond Pool		
Reauthorization ($29,051,000 - Bond Funds)		
Bond Funds - Additional	7,000,000	

Notwithstanding KRS 154.12-100(6), the amounts shown above reflect project amounts.

C. EDUCATION

Budget Unit	1998-99	1999-00
1. Department of Education		
a. Kentucky School for the Blind - Roof Replacement		
Capital Construction Surplus	282,000	
b. Maintenance Pool		
General Fund		1,200,000

Interim funding may be advanced from the Capital Construction and Equipment Purchase Contingency Account during fiscal year 1998-99 for critical projects pending appropriate approval from the Secretary of the Finance and Administration Cabinet and review by the Capital Projects and Bond Oversight Committee. Any moneys so advanced shall be repaid from the fiscal year 1999-2000 appropriation for the maintenance pool.

c. Jackson County Area Vocational School
Reauthorization

D. EDUCATION, ARTS, AND HUMANITIES CABINET

Budget Unit	1998-99	1999-00
1. Teachers' Retirement System		
a. Imaging System		
Restricted Funds	700,000	
2. School Facilities Construction Commission		
a. School Facilities Construction Commission		
Reauthorization ($30,000,000-Bond Funds)		
Bond Funds - Additional	116,591,000	
3. Kentucky Educational Television		
a. Channel 15 Acquisition		
Capital Construction Surplus	1,100,000	
4. Kentucky Historical Society		
a. Legacy II - Kentucky History Center Enhancement		
Other Funds (1997-98 - $1,599,000)	1,599,000	
b. Kentucky History Center Network/Communications		
General Fund	958,000	
Other Funds	349,000	
Total	1,307,000	

5.	Kentucky Center for the Arts		
a.	Maintenance Pool		
	Investment Income	350,000	150,000

E. CABINET FOR FAMILIES AND CHILDREN

Budget Unit		1998-99	1999-00
1.	Administration Services		
a.	Maintenance Pool		
	Investment Income	300,000	300,000
b.	Kenton County - Lease		
c.	Warren County - Lease		
d.	Campbell County - Lease		
e.	Hardin County - Lease		
f.	Kenton County - Lease		
g.	Jefferson County - Lease		
h.	Franklin County - Lease		
i.	Fayette County - Lease		

F. FINANCE AND ADMINISTRATION CABINET

Budget Unit		1998-99	1999-00
1.	General Administration		
a.	Kentucky Infrastructure Authority - Wastewater		
	Revolving Loan and Grant Fund-A		
	(Wastewater Fund-A1; Water Supply Fund-A2)		
	Reauthorization ($9,351,000 - Bond Funds)		
	Bond Funds - Additional	5,600,000	
	Federal Funds	40,000,000	
	Total	45,600,000	

Included in the above Bond Funds appropriation is the funding required in each fiscal year for the state match necessary to receive Federal Funds for the Rural Communities Hardship Grants program administered by the Natural Resources and Environmental Protection Cabinet.

The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low interest loans, to governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

b.	Kentucky Infrastructure Authority - Fund F Loans - Drinking Water		
	Bond Funds	5,000,000	
	Federal Funds	25,000,000	
	Total	30,000,000	
c.	Statewide Digital Basemap		
	Investment Income	1,121,000	
	Federal Funds	1,231,000	
	Total	2,352,000	
d.	Kentucky Infrastructure Authority - Fund B Waterline/Sewer Grant Program		
	Restricted Funds	6,500,000	

Notwithstanding KRS 224A.112, the Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of grants, totaling $2,500,000 to Meade County Fiscal Court for the waterline extension project and $4,000,000 for the Richmond sewer infrastructure project.

2. Department for Administration

For the major equipment purchases displayed in this section as Restricted Funds supported projects, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

a. Bar Code Printing and Sorting Equipment

	Restricted Funds (1997-98 - $73,000)		
b.	Franklin County - Lease (300 Myrtle Avenue)		
3.	Department for Facilities Management		
a.	Winchester State Office Building		
	Bond Funds	2,500,000	
b.	Ballard County Jail		
	General Fund	100,000	
c.	Ben C. Clement Mineral Museum		
	General Fund	169,000	
d.	Breckinridge County Courthouse Elevator		
	General Fund	150,000	
e.	Campbell County Fire Training Center		
	General Fund	240,000	
f.	Caverna Memorial Hospital Renovation		
	General Fund	350,000	
g.	Center for Women and Families Roof		
	General Fund	75,000	
h.	Children's Advocacy/Spouse Abuse Projects		
	General Fund	1,500,000	
i.	Estill County Courthouse Renovation		
	General Fund	200,000	
j.	Hancock County Emergency Vehicle Building		
	General Fund	100,000	
k.	Kentucky Advanced Technical Institute Wood Industries		
	General Fund	100,000	
l.	Lancaster City Hall Renovation		
	General Fund	200,000	
m.	Letcher County Athletic Project		
	General Fund	29,000	
n.	Oak and Acorn		
	General Fund	250,000	
o.	Scott County Vegetable Processing		
	General Fund	50,000	
p.	The Casa Center/New Directions Housing		
	General Fund	250,000	
q.	Year 2000 Conversion		
	General Fund	6,700,000	
r.	Americans with Disabilities Act Compliance		
	Investment Income	250,000	
s.	Capital Construction and Equipment Purchase Contingency Fund		
	Investment Income	5,000,000	
t.	Capital Plaza Complex Repairs		
	Investment Income	1,374,000	1,026,000
u.	Emergency Repair, Maintenance and Replacement Fund		
	Investment Income	5,000,000	
v.	Kentucky State Capitol Dome Renovation/Restoration		
	Investment Income (1997-98 - $698,000)		

w.	Kentucky State Capitol Master Plan/Programming			
	Investment Income		950,000	
x.	Maintenance Pool			
	Restricted Funds		500,000	
	Investment Income		1,175,000	1,449,000
	Total		1,675,000	1,449,000

The Restricted Funds appropriation in fiscal year 1999 shall be funded from the State Surplus Property program.

y.	Maintenance Pool - Statewide Deferred			
	Investment Income		3,500,000	
z.	New Capitol Complex Parking Structure Repairs			
	Investment Income			1,000,000

4. Office of the Secretary

Community Infrastructure Projects

The Community Infrastructure Projects displayed in this section are funded from the General Fund.

a.	Allen County - 4-Way Stop Park		350,000	
b.	Allen County - Roadside Park		50,000	
c.	Ashland Summer Motion Concert		5,000	5,000
d.	Bellevue - Parks Renovation		100,000	
e.	Boyd County Sewer Project		1,500,000	
f.	Casey County Youth & Community Center	110,000		
g.	Chickasaw Park Pond Dioxin Study		30,000	30,000
h.	Dayton - Parks Renovation		100,000	
i.	Dema - Rescue Squad Fire Department		200,000	
j.	Dewey Lake - Environmental Cleanup		50,000	
k.	Elizabethtown - Children's Science and Learning Center		500,000	
l.	Estill Co. Board of Education Swimming Pool Renovation		75,000	
m.	Estill Co. Community & Economic Development Consolidation Facility		240,000	
n.	Fayette County - Aviation Museum of KY	125,000	125,000	
o.	Fayette County - Cardinal Run Park Development	100,000		
p.	Fish Trap Lake - Environmental Cleanup		50,000	
q.	Floyd County - Samuel May House		50,000	
r.	Frankfort YMCA Roof Replacement		175,000	
s.	Hardin County - Challenger Center for Space Science		200,000	
t.	Harrodsburg/Mercer County Parks		250,000	
u.	Hart County Water Project		550,000	
v.	Hazard Senior Citizens Center Addition - Kitchen/Meeting Room/Dining Area		250,000	
w.	Henry County Community Park		150,000	
x.	High Bridge Park Restoration		100,000	
y.	Hopkinsville Convention Center - Design		350,000	
z.	Irvine Equipment Shelter		15,000	
aa.	Jefferson County - Dare to Care, Inc.		250,000	
ab.	Jenny Wiley Theater Debts/Renovation		200,000	

ac.	Kentucky Horse Park - Calumet Trophies	1,500,000	
ad.	Kite - Topmost Fire Department	50,000	
ae.	Lancaster - Owsley House - New Carriage House/Picnic Area	20,000	
af.	Loretto Child Care Center	75,000	
ag.	Louisville - Iroquois Park Horse Trails	25,000	
ah.	Marydale Little League Ballpark Repairs	15,000	
ai.	Mayfield - Ice House Project	25,000	
aj.	Mayfield - Main Street Project	100,000	
ak.	Maysville Convention Center Study	50,000	
al.	Mousie - Fire Department	50,000	
am.	Nebo Community Center	30,000	
an.	Oakland - Improvements to City Hall and Community Center	40,000	
ao.	Okolona Public Library	10,000	
ap.	Old Bardstown Village, Inc. - Renovation of Facilities and Miscellaneous Development	75,000	
aq.	Owen County Industrial Development Authority	150,000	
ar.	Prestonsburg Recreational Park and Golf Course	2,000,000	
as.	Prestonsburg Water and Sewer Project	1,500,000	
at.	Richmond Area Arts Center - Southeast Arts Consortium	50,000	50,000
au.	Sandy Hook - Downtown Revitalization	30,000	
av.	Scott County - Senior Citizens Facility	300,000	
aw.	Shively Police Dept. Trunk Mounted Radar Unit	3,000	
ax.	Simpson County- Industrial Park	200,000	
ay.	Smith's Grove - Sidewalks Historic Downtown	85,000	
az.	Taylorsville Lake Campground - Design of Pool	150,000	
ba.	Terryville Water Project	250,000	
bb.	Upton Community Center	50,000	
bc.	Warren County - Riverfront Development	700,000	
bd.	Williamsburg Community Center and Water Park	125,000	
be.	Williamstown Lake Dam & Spillway, Grant County	200,000	
bf.	WKU Multi-purpose Livestock Holding Pen	215,000	
bg.	Woodford County Park - Kitchen and Restroom	50,000	
bh.	Woodford County - Jack Jouett House Roof Repair	10,000	
bi.	University Press Foundation	200,000	
bj.	Jefferson County Community Center	450,000	
bk.	Bourbon County Alternative School	400,000	
TOTAL		15,308,000	210,000

5. Department of Information Systems

For the major equipment purchases displayed in this section as funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget funds as funds are available and needed.

a.	Kentucky Information Highway Upgrade/Expansion		
	Restricted Funds	1,500,000	1,500,000

b.	Disk Storage Complex Expansion		
	Restricted Funds	418,000	
c.	Enterprise Disk Controller		
	Restricted Funds	345,000	
d.	Enterprise Disk Controller		
	Restricted Funds		345,000
e.	Enterprise Disk Storage Group		
	Restricted Funds	460,000	
f.	Enterprise Disk Storage Group		
	Restricted Funds		460,000
g.	Enterprise Server		
	Restricted Funds	4,470,000	
h.	Enterprise Server		
	Restricted Funds		3,335,000
i.	Imaging System		
	Restricted Funds	1,150,000	
j.	Processor Complex Expansion		
	Restricted Funds	2,588,000	
k.	Tape Controller and Transports		
	Restricted Funds		313,000
l.	Tape Controller and Transports		
	Restricted Funds	313,000	
m.	Teleprocessing Controller		
	Restricted Funds	525,000	
n.	Franklin County - Lease (100 Fair Oaks)		
6.	Lottery Corporation		
a.	Contingency on Property Adjacent to New Headquarters		
	Other Funds	1,500,000	--
b.	Instant Ticket Vending Machines		
	Other Funds	3,420,000	3,420,000
c.	Play Centers for Retail Outlets		
	Other Funds	325,000	325,000
d.	Potential Buyout of On-line Gaming System		
	Other Funds	24,447,000	

A decision by the Lottery Corporation Board to exercise the buyout option authorized here must first obtain the concurrence and approval of the Secretary of the Finance and Administration Cabinet.

e.	Pull Tab Ticket Vending Machines		
	Other Funds	2,304,000	2,304,000
f.	Automate Sales Force Communications		
	Other Funds	275,000	
g.	Data Processing, Telecommunications and Related Equipment		
	Other Funds	3,350,000	
h.	Replacement of Personal Computers		
	Other Funds	160,000	160,000
i.	Upgrade AS 400 Disk Capacity		
	Other Funds	375,000	
j.	Upgrade AS 400 to RISC Technology		

Other Funds	1,020,000
k. Upgrade Communications of Regional Offices to ATM	
Other Funds	350,000
l. Upgrade to Distributed Processing Model	
Other Funds	300,000

The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $1,500,000 in the aggregate.

G. CABINET FOR HEALTH SERVICES

Budget Unit	1998-99	1999-00
1. Department for Mental Health/Mental Retardation Services		
a. Emergency Generator Replacement - Glasgow Skilled Nursing Facility		
Capital Construction Surplus (1997-98 - $550,000)		
b. Emergency Generator Replacement - Central State Hospital		
Capital Construction Surplus (1997-98 - $550,000)		
c. Franklin County - Lease (Fair Oaks Building)		
d. Maintenance Pool		
Investment Income	450,000	450,000
e. Miscellaneous Roof Replacement/Repair Pool		
Investment Income	400,000	

H. JUSTICE CABINET

Budget Unit	1998-99	1999-00
1. Department of State Police		
a. Maintenance Pool		
Investment Income	200,000	200,000
b. Inductively Coupled Mass Spectrometer		
Federal Funds	150,000	
Capital Construction Surplus	50,000	
Total	200,000	
c. Microspectrometer		
Federal Funds	90,000	
Capital Construction Surplus	30,000	
Total	120,000	
d. Integrated Criminal Apprehension Program (ICAP) Upgrade		
Bond Funds	1,583,000	
e. Kentucky State Police - Automated Fingerprint Identification System (AFIS)		
Federal Funds	1,871,000	
f. Kentucky State Police - Kentucky Accident Reporting System (CRASH)		
Federal Funds	913,000	
Bond Funds	1,587,000	
Total	2,500,000	
g. Replacement of Basic Radio System		
Bond Funds	20,082,000	
h. La Grange State Police Post		
Bond Funds	1,200,000	
i. Hazard State Police Post		
Bond Funds	1,450,000	
2. Department of Juvenile Justice		

a.	40-Bed Bootcamp		
	Federal Funds (1997-98 - $621,000)		
b.	Expansion of Breathitt County Detention Center		
	Bond Funds	2,500,000	
c.	Maintenance Pool		
	General Fund	500,000	
	Investment Income	400,000	400,000
	Total	900,000	400,000
d.	New Maximum Security Facility		
	Bond Funds	8,410,000	
e.	Northern Kentucky Treatment Center - HVAC Replacement		
	General Fund	558,000	
f.	Secure Juvenile Detention Facility #1		
	Bond Funds	5,357,000	
g.	Secure Juvenile Detention Facility #2		
	Bond Funds	5,357,000	
h.	Secure Juvenile Detention Facility #3		
	Bond Funds	5,357,000	
3.	Department of Corrections		
a.	Blackburn Correctional Complex - 200-Bed Minimum Security Dorm-Phase I		
	Bond Funds	5,195,000	
b.	Correctional Industries Warehouse/Office Complex		
	Restricted Funds	2,741,000	
c.	Execution Building		
	General Fund	643,000	
d.	Kentucky Correctional Institution for Women Expansion - Phase I		
	Bond Funds	16,434,000	
e.	Maintenance Pool		
	Investment Income	1,400,000	1,400,000
f.	Northpoint Training Center-Water Storage Tank and Water Line Replacement		
	Bond Funds	849,000	
g.	New 1,790-Bed Medium Security Facility for Men		
	(Design and Site Acquisition Only)		
	Bond Funds	3,440,000	
h.	Replace Fire Alarm System		
	Investment Income	450,000	
i.	Correctional Industries/Heidelberg Print Press		
	Restricted Funds	151,000	
j.	Correctional Industries - Unitized Tooling		
	Restricted Funds	109,000	
k.	Embroidery Machine		
	Restricted Funds	110,000	
l.	HPM Press-License Tags		
	Restricted Funds	165,000	
m.	Kluge Letter Press		
	Restricted Funds	110,000	
n.	Washer System		

Restricted Funds	112,000	
o. Automated Fingerprinting and Photo System		
Restricted Funds	90,000	90,000
p. Jefferson County - Lease (Probation and Parole)		

I. LABOR

Budget Unit	1998-99	1999-00
1. Office of the Secretary		
a. Computer Imaging System		
Restricted Funds - Additional	656,000	470,000
b. Franklin County - Lease (127 Building South)		
2. Department of Workers Claims		
a. Franklin County - Lease (1270 Louisville Road)		

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Budget Unit	1998-99	1999-00
1. General Administration and Support		
a. Kentucky Heritage Land Conservation Fund - Reauthorization		
Restricted Funds - Additional	7,500,000	3,500,000
b. Maintenance Pool		
Investment Income	100,000	100,000
2. Department for Environmental Protection		
a. State-Owned Dam Repair - Reauthorization		
Investment Income - Additional	500,000	500,000

These funds shall not be expended for the repair of dams owned by the Kentucky Department of Fish and Wildlife Resources or the Kentucky Transportation Cabinet.

b. State-Funded Leaking Underground Storage Tanks - Reauthorization		
Restricted Funds - Additional	500,000	500,000
c. Hazardous Waste Management Fund - Reauthorization		
Restricted Funds - Additional	2,100,000	2,100,000
d. Franklin County - Lease (Ash Properties)		
e. Franklin County - Lease (Air Quality)		
f. Maxey Flats Monitoring Equipment		
General Fund	191,000	
3. Department for Natural Resources		
a. Forestry Underground Storage Tank Removal		
Investment Income	200,000	
b. Forestry Equipment		
General Fund	500,000	
4. Department for Surface Mining Reclamation and Enforcement		
a. Franklin County - Lease (Hudson Hollow)		
6. Kentucky River Authority		
a. Locks and Dams - Acquisition Reauthorization		
b. Kentucky River Water Release System -		

Reauthorization ($2,000,000 - Agency Bonds)		
Restricted Funds - Additional	800,000	
Agency Bonds - Additional	2,000,000	
Total	2,800,000	
c. Kentucky River Lock 6 Repairs		
Restricted Funds	302,000	
5. Kentucky Nature Preserves Commission		
a. Nature Preserves Acquisition Fund - Reauthorization		
Restricted Funds - Additional	30,000	30,000
Other Funds - Additional	300,000	300,000
Total	330,000	330,000

K. PERSONNEL CABINET

Budget Unit	1998-99	1999-00
1. Personnel		
a. Franklin County - Lease		

L. POSTSECONDARY EDUCATION

Budget Unit	1998-99	1999-00
1. Council on Postsecondary Education		
a. Agency Bond Pool		
Agency Bonds	35,000,000	
b. Commonwealth Virtual University Technology Pool		
Bond Funds	30,000,000	
c. Deferred Maintenance and Government Mandates Pool		
Restricted Funds	20,613,000	
Bond Funds	20,613,000	
Total	41,226,000	
d. Research Equipment and Lab Replacement or Acquisition Pool		
Bonds Funds	26,250,000	
2. Kentucky Higher Education Assistance Authority		
a. Kentucky Higher Education Assistance Authority Office Building		
Restricted Funds (1997-98 - $310,000)	1,400,000	
Agency Bonds	9,000,000	
Total	10,400,000	
b. Development Departmental Processor Upgrade		
Restricted Funds	275,000	
c. Imaging System Upgrade		
Restricted Funds	250,000	
d. Franklin County - Lease		
e. Production Departmental Processor Upgrade		
Restricted Funds	650,000	
f. System Laser Upgrade		
Restricted Funds	275,000	
g. Tape Management System		
Restricted Funds	250,000	
3. Eastern Kentucky University		
a. Americans with Disabilities Act Compliance		

	Restricted Funds	2,560,000	
b.	E & G Life Safety Begley Elevator		
	Restricted Funds	750,000	
c.	Law Enforcement Basic Training Complex		
	Agency Bonds	20,000,000	
d.	Minor Projects Maintenance		
	Restricted Funds	6,000,000	6,000,000
e.	Parking Garage		
	Restricted Funds	7,200,000	
f.	Property Acquisition		
	Restricted Funds	2,000,000	3,000,000
g.	Residence Hall Major Renovation		
	Restricted Funds	10,000,000	
h.	Student Service/Classroom Building		
	Bond Funds	20,000,000	
i.	Electronic Security System for Law Library		
	Restricted Funds	110,000	
j.	Fourier Transformer Nuclear Magnetic Resonance Spectrometer		
	Restricted Funds	135,000	
k.	Minor Projects Equipment		
	Restricted Funds	2,500,000	2,500,000
l.	Academic Computing Upgrades		
	Restricted Funds	120,000	120,000
m.	Administrative Computing System Upgrade/Replacement		
	Restricted Funds	490,000	490,000
n.	Campus Data Network Expansion/Upgrade		
	Restricted Funds	950,000	950,000
o.	Distance Learning System Component Acquisition		
	Restricted Funds	2,960,000	
p.	Education Reform Computing Telecommunications Expansion		
	Restricted Funds	700,000	750,000
4.	Kentucky State University		
a.	Americans with Disabilities Act Projects Pool		
	Restricted Funds	650,000	
b.	Chiller Additions		
	Restricted Funds	2,168,000	
c.	Combs Hall Renovation		
	Restricted Funds		1,235,000
d.	General Maintenance Projects		
	Restricted Funds	1,150,000	
e.	Guard Houses		
	Restricted Funds		56,000
f.	Hill Student Center Renovation/Addition		
	Bond Funds	8,250,000	
g.	Hillcrest Renovation and Landscaping		
	Restricted Funds	382,000	
h.	Hunter Hall Renovation		

	Restricted Funds	1,257,000	
i.	Kentucky State University Foundation Building		
	Other Funds		1,715,000
j.	McCullin Hall Renovation		
	Restricted Funds	1,642,000	
k.	Road and Walkway Improvements		
	Restricted Funds - Additional	22,000	
l.	University Motor Coach		
	Restricted Funds	285,000	
5.	Morehead State University		
a.	1990 Clean Air Act Amendment Compliance		
	Restricted Funds	1,100,000	1,100,000
b.	Americans with Disabilities Act Compliance - E & G		
	Restricted Funds	1,025,000	1,000,000
c.	Americans with Disabilities Act Compliance - Auxiliary Enterprise		
	Restricted Funds	1,100,000	1,075,000
d.	Breckinridge Hall Renovation		
	Bond Funds	14,000,000	
e.	Central Campus Reconstruction		
	Restricted Funds	650,000	
f.	Equine Teaching Facilities/Renovation of Richardson Arena		
	Restricted Funds - Additional	480,000	
g.	Fire Safety/Auxiliary Facilities		
	Restricted Funds	610,000	610,000
h.	Head Start Facility		
	Restricted Funds	144,000	
	Federal Funds	576,000	
	Total	720,000	
i.	Land Acquisitions Related to Campus Master Plan		
	Restricted Funds	1,337,000	
j.	Life Safety: Claypool-Young Air Quality, Health and Safety		
	Restricted Funds	400,000	
k.	Life Safety: Dam Repair/Restoration		
	Restricted Funds	800,000	
l.	Life Safety: Elevator Repairs		
	Restricted Funds	850,000	
m.	Plant Facilities Construction		
	Restricted Funds	2,000,000	
n.	Protect Investment in Auxiliary Facilities		
	Restricted Funds	1,210,000	1,210,000
o.	Protect Investment in E & G Facilities		
	Restricted Funds	1,650,000	1,650,000
p.	Renovation of Family Housing Complexes		
	Restricted Funds	2,000,000	
q.	Instructional Technology Initiatives		
	Restricted Funds	1,702,000	
r.	Instructional and Support Equipment		

	Restricted Funds	1,366,000	
s.	Nuclear Magnetic Resonance Apparatus		
	Restricted Funds	210,000	
t.	Tour Bus		
	Restricted Funds	330,000	
u.	Administrative and Office Systems Support Initiatives		
	Restricted Funds	1,250,000	
v.	Distance Learning Technology Initiatives		
	Restricted Funds	2,725,000	
w.	Library Automation and Information Support Initiatives		
	Restricted Funds	900,000	
x.	Microcomputer/LANs/Peripherals - Instructional		
	Restricted Funds	1,800,000	
y.	Networking/Infrastructure Initiatives		
	Restricted Funds	1,508,000	
z.	West Liberty Extended Campus Building		
	Bond Funds	6,000,000	
aa.	Development of Wellness Facilities - Phase II		
	Reauthorization		
	Agency Bonds	1,900,000	
6.	Murray State University		
a.	Americans with Disabilities Act Compliance: Architectural Barriers		
	E & G Pool less than $400,000		
	Restricted Funds	1,229,000	1,192,000
b.	Americans with Disabilities Act Compliance: Architectural Barriers		
	Blackburn Science		
	Restricted Funds		1,367,000
c.	Americans with Disabilities Act Compliance: Architectural Barriers		--
	H & D Pool less than $400,000		
	Restricted Funds	415,000	475,000
d.	Asbestos Abatement: E & G Pool less than $400,000		
	Restricted Funds	58,000	
e.	Asbestos Abatement: H & D Pool less than $400,000		
	Restricted Funds	501,000	180,000
f.	Chlorofluorocarbon Compliance: E & G Chillers Replacement		
	Restricted Funds	476,000	421,000
g.	Chlorofluorocarbon Compliance: H & D Chillers and Monitoring System		
	Restricted Funds	370,000	370,000
h.	Carr Health/Business Building Renovations and Education Building Addition		
	Bond Funds	10,184,000	
	Other Funds	4,000,000	
	Total	14,184,000	
i.	Deferred Maintenance: H & D Pool less than $400,000		
	Restricted Funds	868,000	894,000
j.	Deferred Maintenance: E & G Pool less than $400,000		
	Restricted Funds	2,177,000	2,855,000
k.	Energy Conservation: E & G Pool less than $400,000		

	Restricted Funds	496,000	
l.	Life Safety: E & G Pool less than $400,000		
	Restricted Funds	450,000	628,000
m.	Life Safety: H & D Pool less than $400,000		
	Restricted Funds	296,000	306,000
n.	National Scouting Museum, BSA Phase III		
	Restricted Funds - Additional		300,000
o.	Miscellaneous E & G Projects less than $400,000		
	Restricted Funds	1,236,000	1,132,000
p.	Miscellaneous H & D Projects less than $400,000		
	Restricted Funds	50,000	70,000
q.	Replace Clark or Franklin Hall/College		
	Restricted Funds	6,500,000	
r.	Replace Richmond Hall		
	Restricted Funds	6,500,000	
s.	Air Testing and Monitoring Equipment		
	Restricted Funds		125,000
t.	Arts Educational Equipment		
	Restricted Funds	683,000	115,000
u.	Breathitt Lab Equipment		
	Restricted Funds		661,000
v.	Equipment less than $100,000		
	Restricted Funds	864,000	572,000
w.	General Lab Equipment Replacement		
	Restricted Funds		602,000
	Federal Funds		85,000
	Total		687,000
x.	Replace Family and Consumer Studies Lab Equipment		
	Restricted Funds		353,000
y.	Purchasing and Accounts Payable System		
	Restricted Funds	113,000	115,000
z.	Telecommunications Switching Systems		
	Restricted Funds	120,000	
7.	Northern Kentucky University		
a.	Americans with Disabilities Act Compliance		
	Restricted Funds	400,000	
b.	Alumni and Faculty/Staff Center		
	Other Funds	3,000,000	
c.	Athletic Fields - Phase I		
	Other Funds	7,000,000	
d.	Chiller Replacements/Chlorofluorocarbon		
	Restricted Funds	4,500,000	
	Other Funds	2,600,000	
	Total	7,100,000	
e.	Covington Campus - Urban Learning Center		
	Other Funds	10,000,000	
f.	Energy Conservation/Management Pool		

	Restricted Funds	400,000
g.	Fire Safety: E & G Sprinklers	
	Restricted Funds	400,000
h.	Land Acquisition (1998-2000)	
	Restricted Funds	2,000,000
i.	Landrum Structural Safety Repairs	
	Restricted Funds	650,000
j.	Landscape Enhancement (1998-2000)	
	Other Funds	1,000,000
k.	Minor Projects Pool (1998-2000)	
	Restricted Funds	1,095,000
l.	Natural Science Building	
	Bond Funds - Additional	36,500,000
m.	Northern Kentucky Convocation Center Feasibility Study	
	Restricted Funds	500,000
n.	New Printing Press	
	Restricted Funds	175,000
o.	Alpha Computer Expansion	
	Restricted Funds	135,000
p.	Automatic Tape System	
	Restricted Funds	155,000
q.	Digital Copier	
	Restricted Funds	315,000
r.	Laser Printer	
	Restricted Funds	125,000
s.	Voice Mail System	
	Restricted Funds	180,000
t.	Voice-Response/Touch-Tone System	
	Restricted Funds	205,000
8.	University of Kentucky - University System	
a.	4 KV to 12 KV Electrical Conversion	
	Restricted Funds	400,000
b.	Academic and Research Renovation (College of Medicine)	
	Restricted Funds	625,000
c.	Administration Building - Exterior Repair	
	Restricted Funds	1,400,000
d.	Aging/Allied Health Building, Phase II	
	Restricted Funds	13,000,000
	Bond Funds	20,000,000
	Total	33,000,000
e.	Agricultural Plant Science Facility	
	Restricted Funds	18,365,000
f.	Agricultural Science Greenhouses - Renovation	
	Restricted Funds	750,000
g.	Agriculture Information Center	
	Restricted Funds	800,000
h.	Agriculture North Renovation	

	Restricted Funds	3,150,000	
i.	Agriculture Science South - Animal Care Facility Upgrade		
	Restricted Funds	900,000	
j.	Bowman Hall Renovation		
	Restricted Funds	4,300,000	
k.	Boyd Hall - HVAC		
	Restricted Funds		1,100,000
l.	Chemistry Laboratory Renovation		
	Restricted Funds	1,050,000	
m.	Chilled Water Additions		
	Restricted Funds	700,000	
n.	Chiller Replacement - Cooling #3		
	Restricted Funds	1,000,000	
o.	Clinical Development Space (College of Medicine)		
	Restricted Funds	500,000	
p.	Clinical Lab-Computer Assisted Learning Facility		
	Restricted Funds	450,000	
q.	Commonwealth Stadium Expansion		
	Agency Bonds	24,000,000	
r.	Cooling #3 to Limestone Street Chilled Water Pipe		
	Restricted Funds	1,800,000	
s.	Cooling Secondary Pumping		
	Restricted Funds	2,000,000	
t.	Cooper House Renovation		
	Restricted Funds	750,000	
u.	Cooperstown/Shawneetown III		
	Restricted Funds	4,500,000	
v.	Crisp Building Replacement		
	Restricted Funds	2,200,000	
w.	Deferred Maintenance and Roof Replacement Project Pool		
	Restricted Funds	9,297,000	
x.	Electrical Substation #1 and #2 Connections		
	Restricted Funds	1,500,000	
y.	Energy Conservation Project (Medical Center)		
	Restricted Funds	2,000,000	
z.	Engineering Information Center		
	Restricted Funds	650,000	
aa.	Erikson Hall Renovation		
	Restricted Funds		2,250,000
ab.	Gatton College Addition for International Business and Management Center		
	Restricted Funds	1,500,000	
ac.	Handicapped Access Pool		
	Restricted Funds	2,425,000	
ad.	High Security Isolation Facility		
	Restricted Funds		9,800,000
ae.	Holmes Hall - HVAC		
	Restricted Funds	950,000	

af.	Jewell Hall - HVAC		
	Restricted Funds		700,000
ag.	Keeneland Hall - HVAC		
	Restricted Funds		1,900,000
ah.	Kentucky Clinic Annex Replacement Building		
	Restricted Funds	6,000,000	
ai.	King South Renovation		
	Restricted Funds	10,365,000	
aj.	Lancaster Aquatics Center Expansion		
	Restricted Funds	2,573,000	
ak.	Land Acquisition		
	Restricted Funds	4,000,000	
al.	Life Safety Project Pool		
	Restricted Funds	11,400,000	
am.	Long Range Utility Planning		
	Restricted Funds	600,000	
an.	Mechanical Engineering Building		
	Restricted Funds	4,000,000	
	Bond Funds	19,600,000	
	Total	23,600,000	
ao.	Medical Center Addition		
	Restricted Funds		11,400,000
ap.	Medical Center Chilled Water Loop		
	Restricted Funds	500,000	
aq.	Medical Center Information Center		
	Restricted Funds	1,550,000	
ar.	Outpatient Clinic Expansion - Dentistry		
	Restricted Funds		2,000,000
as.	Parking Structure Expansion		
	Restricted Funds	5,654,000	
at.	Patterson Hall Renovation		
	Restricted Funds		2,950,000
au.	Pharmacy Dispensing Lab		
	Restricted Funds	600,000	
av.	Pollution Controls, Medical Center Heating Plant		
	Restricted Funds	1,333,000	
aw.	Publishing Services Building Addition		
	Restricted Funds	450,000	
ax.	Renovation of Biological Sciences Research Space		
	Restricted Funds	1,300,000	
ay.	Renovation of Funkhouser - Phase IV		
	Restricted Funds	700,000	
az.	Seaton Center Addition/Renovation		
	Restricted Funds	15,350,000	
ba.	Singletary Center Renovation of Auditoria and Public Spaces		
	Restricted Funds	1,850,000	
bb.	Slone Building Renovation		

	Restricted Funds	3,900,000
bc.	South Campus Communications Infrastructure	
	Restricted Funds	2,294,000
bd.	Specialized Greenhouses	
	Restricted Funds	3,550,000
be.	Steam Line Expansion - Rose Street	
	Restricted Funds	700,000
bf.	Steam and Condensate Pipe Repair	
	Restricted Funds	2,100,000
bg.	Storm Sewer Improvements - Funkhouser	
	Restricted Funds	800,000
bh.	Student Center Sprinkler System	
	Restricted Funds	700,000
bi.	Student Housing/Fraternity House Replacement	
	Restricted Funds	5,600,000
bj.	Substation #2 Renovation	
	Restricted Funds	2,000,000
bk.	4.7 Tessler Human Scanner	
	Restricted Funds	4,000,000
bl.	600 MHz Nuclear Magnetic Resonance System	
	Restricted Funds	1,500,000
bm.	600 MHz Nuclear Magnetic Resonance	
	Restricted Funds	300,000
	Federal Funds	700,000
	Total	1,000,000
bn.	800 MHz Nuclear Magnetic Resonance System	
	Restricted Funds	2,500,000
bo.	9.4 Tessler Scanner	
	Restricted Funds	750,000
bp.	ABS DNA Sequencer	
	Restricted Funds	120,000
bq.	Area Detector Diffractomer	
	Restricted Funds	100,000
	Federal Funds	210,000
	Total	310,000
br.	Autoradiography	
	Restricted Funds	207,000
bs.	Calorimeter	
	Restricted Funds	104,000
bt.	Confocal Microscope	
	Restricted Funds	315,000
bu.	Confocal Microscope System	
	Restricted Funds	120,000
bv.	DNA Sequencer	
	Restricted Funds	150,000
bw.	DNA Sequencer	
	Restricted Funds	130,000

bx.	DNA Sequencer		
	Restricted Funds	120,000	
by.	DNA Sequencer/Gene Mapping		
	Restricted Funds	130,000	130,000
bz.	DNA Synthesizer		
	Restricted Funds	100,000	
ca.	Differential Flow Calorimeter/Thermomechanical Analyzer		
	Restricted Funds	175,000	
cb.	Dissecting Confocal Microscope		
	Restricted Funds	200,000	
cc.	Electron Spin Resonance Instrument		
	Restricted Funds	65,000	
	Federal Funds	135,000	
	Total	200,000	
cd.	Electrophysiologic Analysis System		
	Restricted Funds	200,000	
ce.	Environmental Test System		
	Restricted Funds	125,000	
cf.	Epi-Flourescence Microscope		
	Restricted Funds	130,000	
cg.	Faraday Balance		
	Restricted Funds	60,000	
	Federal Funds	140,000	
	Total	200,000	
ch.	Flow Cytometry Lab		
	Restricted Funds	375,000	
ci.	Fluorescence Activated Cell Sorter		
	Restricted Funds	200,000	
cj.	Fluorescent Activated Cell Sorter		
	Restricted Funds	230,000	
ck.	Freeze-Thaw Apparatus		
	Restricted Funds	100,000	
cl.	GT Ultracentrifuges		
	Restricted Funds	345,000	
cm.	Garbage Truck Front Loader - Replacement		
	Restricted Funds	150,000	
cn.	Gas Analyzer		
	Restricted Funds	100,000	
co.	Gas Chromatograph - Mass Spectrometer		
	Restricted Funds	250,000	
cp.	Gas Chromatograph - Mass Spectrophotometer System		
	Restricted Funds	210,000	
cq.	Gas Chromatography/Atomic Emission Detector (GC/AED)		
	Restricted Funds	120,000	
cr.	HPLC to Measure Cellular Metabolites		
	Restricted Funds	100,000	
cs.	HPLC/Mass Spectrometer System		

	Restricted Funds	300,000
ct.	High Power Carbon Dioxide Laser	
	Restricted Funds	250,000
cu.	High Pressure Liquid Chromatography and Accessories	
	Restricted Funds	100,000
	Federal Funds	100,000
	Total	200,000
cv.	High Resolution Mass Spectrometer	
	Restricted Funds	500,000
cw.	High Resolution Phosophor Imager	
	Restricted Funds	200,000
cx.	High Resolution STEM 400 KV	
	Restricted Funds	1,500,000
cy.	High Temperature Optical Microscope	
	Restricted Funds	105,000
cz.	High-Speed Digital Signal Processing Development System	
	Federal Funds	150,000
da.	High-Temperature X-Ray Diffractometer	
	Restricted Funds	225,000
db.	Holographic System with Image Analyzer	
	Restricted Funds	110,000
dc.	Hydro Flume	
	Restricted Funds	130,000
dd.	Image Analysis System	
	Restricted Funds	200,000
de.	Image Analyzer System	
	Restricted Funds	200,000
df.	Incinerator Replacement	
	Restricted Funds	1,600,000
dg.	Inductive Coupled Argon Plasma Unit	
	Restricted Funds	110,000
dh.	Integrated TGA/Differential Scanning Calorimeter/MS	
	Restricted Funds	120,000
di.	Inverted Microscope Including Fluoroscope	
	Restricted Funds	150,000
dj.	Isolate Cell Calcium Detector	
	Restricted Funds	110,000
dk.	Laser	
	Restricted Funds	104,000
dl.	Laser Ablation Sampling System/Attachment for ICP/MS	
	Restricted Funds	200,000
dm.	Laser Confocal Microscope	
	Restricted Funds	303,000
dn.	Laser System	
	Restricted Funds	80,000
	Federal Funds	170,000
	Total	250,000

do.	Lighting System	
	Restricted Funds	237,000
dp.	MB Ultracentrifuges	
	Restricted Funds	354,000
dq.	MB/GT Phospho-Imager	
	Restricted Funds	128,000
dr.	Motion Analysis System Upgrade	
	Restricted Funds	204,000
ds.	Nuclear Magnetic Resonance Spectrometer 300 MHz Upgrade	
	Restricted Funds	400,000
dt.	Offset Printing Press	
	Restricted Funds	150,000
du.	Oxymax Open Circuit Calorimeter	
	Restricted Funds	100,000
dv.	Plot Combine with Weighing System	
	Restricted Funds	125,000
dw.	Protein Synthesizer	
	Restricted Funds	200,000
dx.	Real Time Confocal Microscope	
	Restricted Funds	300,000
dy.	Research Grade Light Microscope	
	Restricted Funds	100,000
dz.	Solids NMR Spectrometer	
	Restricted Funds	900,000
ea.	Sterilizer	
	Restricted Funds	100,000
eb.	Sterilizing/Cleaning System	
	Restricted Funds	234,000
ec.	Stiff Testing Machine	
	Restricted Funds	140,000
ed.	Studio Recording Equipment	
	Restricted Funds	113,000
ee.	Thermal Analyzer and Powder Diffractometer	
	Restricted Funds	310,000
ef.	Three-Dimensional Scaling Device	
	Federal Funds	100,000
eg.	Tinius Olsen Ductometer	
	Restricted Funds	100,000
eh.	Transmission Electron Microscope	
	Restricted Funds	200,000
ei.	Ultra High Vacuum Chamber	
	Restricted Funds	80,000
	Federal Funds	170,000
	Total	250,000
ej.	Ultracentrifuge	
	Restricted Funds	113,000
ek.	Upgrade of 400 MHz Nuclear Magnetic Resonance	

	Restricted Funds	160,000	
	Federal Funds	340,000	
	Total	500,000	
el.	Virtual Environment Simulator		
	Restricted Funds	125,000	
em.	Whole Body Composition Analyzer		
	Restricted Funds	150,000	
en.	X-Ray Fluorescence Instrument		
	Restricted Funds		130,000
eo.	X-Ray Fluorescence System		
	Restricted Funds	175,000	
ep.	X-Ray Laue Unit - Single Crystal		
	Restricted Funds	150,000	
eq.	3.7 Satellite Uplink		
	Restricted Funds	304,000	
er.	CAD/CAM System		
	Restricted Funds	184,000	
es.	Community College System Network Upgrade		
	Restricted Funds	1,187,000	
et.	Compressed Video - Hazard		
	Restricted Funds	136,000	
eu.	Database Testbed		
	Restricted Funds	225,000	
ev.	Department Computer Upgrade		
	Restricted Funds	225,000	
ew.	Digital Radiograph/Imaging System		
	Restricted Funds	200,000	
ex.	Distributed Testbed System		
	Restricted Funds	250,000	
ey.	Engineering Research Computing System		
	Restricted Funds	440,000	
ez.	General Chemistry Computerization		
	Restricted Funds	385,000	
fa.	Healthcare Network		
	Restricted Funds	3,000,000	
fb.	Imaging Systems I		
	Restricted Funds	328,000	
fc.	Instructional Multi-Media, Phase II		
	Restricted Funds	576,000	1,150,000
fd.	Language Lab		
	Restricted Funds	300,000	
fe.	NSF Fileserver		
	Restricted Funds	150,000	
ff.	Network Replacement		
	Restricted Funds	100,000	
fg.	Optical Disk Server		
	Restricted Funds	180,000	

fh.	Patient Classification Equipment Rural Health		
	Restricted Funds	250,000	
fi.	Satellite Uplink - Rural Health		
	Restricted Funds	400,000	
fj.	Storage Management System I		
	Restricted Funds	328,000	
fk.	Supercomputer Upgrade I		
	Restricted Funds	1,574,000	1,574,000
fl.	Telemedicine Equipment - Rural Health		
	Restricted Funds	400,000	
fm.	Telemedicine Systems		
	Restricted Funds	600,000	
fn.	Upgrading/Establishing Communication System		
	Restricted Funds	365,000	462,000
fo.	Virtual Reality Computing System		
	Restricted Funds	150,000	
fp.	College of Medicine - Clinical/Educational - Lease		
fq.	College of Medicine Clinical - Lease		
9.	Kentucky Community and Technical College System		
a.	Central Regional Postsecondary Education Center - Phase I		
	Bond Funds	10,663,000	
	Other Funds	2,789,000	
	Total	13,452,000	
b.	Deferred Maintenance and Government Mandates Pool		
	Restricted Funds	4,387,000	
	Bond Funds	4,387,000	
	Total	8,774,000	
c.	Hazard Community College Classroom Building - Phase II		
	Bond Funds	4,355,000	
	Other Funds	2,145,000	
	Total	6,500,000	
d.	Kentucky Advanced Technology Institute - Land Acquisition		
	General Fund	265,000	
e.	Kentucky Tech College of Arts and Crafts		
	Bond Funds	2,747,000	
	Other Funds	1,353,000	
	Total	4,100,000	
f.	Kentucky Tech Clinton County Regional Technology Center		
	Bond Funds	3,537,000	
	Other Funds	3,000,000	
	Total	6,537,000	
g.	Kentucky Tech Danville: Regional Technology Center - Phase I		
	Bond Funds	4,680,000	
	Other Funds	2,305,000	
	Total	6,985,000	
h.	Madisonville Community College - Science/Technical Classroom Building		
	Federal Funds	500,000	

	Bond Funds	2,900,000
	Other Funds	2,000,000
	Total	5,400,000
i.	Madisonville Community College: Muhlenberg County Classroom Building	
	Restricted Funds	3,500,000
j.	Maysville Community College and Kentucky Tech Maysville: New Technology Center	
	Bond Funds	6,675,000
	Other Funds	825,000
	Total	7,500,000
k.	New Kentucky Tech Shelby County Campus and Jefferson Community College Extension Center	
	Bond Funds	7,208,000
	Other Funds	3,550,000
	Total	10,758,000
l.	Northeast Regional Postsecondary Education Center	
	Bond Funds	5,000,000
	Other Funds	1,650,000
	Total	6,650,000
m.	Paducah Community College Engineering Building Infrastructure Completion	
	General Fund	709,000
n.	Paducah Community College Engineering Building Instructional Labs	
	General Fund	734,000
o.	Paducah Community College Library Renovation	
	General Fund	1,150,000
p.	Somerset Community College and Kentucky Tech - Academic Support/Technical Education Complex	
	Bond Funds	6,873,000
	Other Funds	3,385,000
	Total	10,258,000
q.	South Regional Postsecondary Education Center - Phase I	
	Bond Funds	6,180,000
	Agency Bonds	1,525,000
	Other Funds	1,295,000
	Total	9,000,000
r.	Southeast Regional Postsecondary Education Center - Phase I	
	Bond Funds	10,484,000
	Other Funds	2,701,000
	Total	13,185,000
s.	West Regional Postsecondary Education Center	
	Bond Funds	5,000,000
	Other Funds	1,650,000
	Total	6,650,000
t.	Hazard Regional Technology Center: Articulating Grader	
	Restricted Funds	187,000
u.	Hazard Regional Technology Center: Bulldozer	
	Restricted Funds	478,000

	v.	Hazard Regional Technology Center: Endloader		
		Restricted Funds	161,000	
	w.	Automated Administrative Systems		
		Restricted Funds (1997-98 - $10,300,000)		
		Bond Funds (1997-98 - $3,200,000)		
	x.	Belinda Mason Academic/Technical Building		
		Bond Funds	5,000,000	
10.		University of Kentucky Hospital		
	a.	Biohazard/Environmental Protection I		
		Restricted Funds	1,500,000	
	b.	Building Connectors II		
		Restricted Funds	2,200,000	
	c.	Building/Site Upgrade II		
		Restricted Funds	710,000	
	d.	Data Systems Expansion I		
		Restricted Funds	595,000	
	e.	Diagnostic Service Upgrade VII		
		Restricted Funds	1,100,000	
	f.	Diagnostic Services Upgrade VIII		
		Restricted Funds	1,100,000	
	g.	HVAC Upgrade		
		Restricted Funds		3,500,000
	h.	Hospital Kitchen Renovation I		
		Restricted Funds	1,000,000	
	i.	Hospital Kitchen Renovation II		
		Restricted Funds	520,000	
	j.	Hospital Parking Expansion		
		Restricted Funds		3,100,000
	k.	Imaging Services		
		Restricted Funds	3,500,000	
	l.	Implementation of Land Use Plan II		
		Restricted Funds	2,500,000	
	m.	Intra-Hospital Transportation Systems III		
		Restricted Funds	700,000	
	n.	Limited Stay Facility		
		Restricted Funds	5,200,000	
	o.	Markey Fourth Floor Renovation		
		Restricted Funds	3,800,000	
	p.	Materials Handling Storage/Distribution Center		
		Restricted Funds	970,000	
	q.	Nursing Unit Modification VI		
		Restricted Funds	940,000	
	r.	Nursing Unit Modification VIII		
		Restricted Funds	3,500,000	
	s.	Outpatient Care Facility		
		Restricted Funds	3,500,000	
	t.	Outpatient Diagnostic and Treatment Center		

	Restricted Funds	14,000,000
u.	Outpatient Services	
	Restricted Funds	3,600,000
v.	Parking Structure I	
	Restricted Funds	6,600,000
w.	Parking Structure II	
	Restricted Funds	6,600,000
x.	Patient Care Facility/Women's Cancer Center	
	Restricted Funds	8,000,000
y.	Primary Care Center	
	Restricted Funds	13,200,000
z.	Utility System Upgrade III	
	Restricted Funds	1,500,000
aa.	Angiographic Unit	
	Restricted Funds	1,950,000
ab.	Automated Screening System	
	Restricted Funds	200,000
ac.	Breast Radiographic	
	Restricted Funds	250,000
ad.	CT Scanner	
	Restricted Funds	1,600,000
ae.	Cardiac Catheterization Lab	
	Restricted Funds	4,000,000
af.	Cardiac Ultrasound	
	Restricted Funds	300,000
ag.	Catheterization Lab	
	Restricted Funds	2,500,000
ah.	Digital Enhancement	
	Restricted Funds	850,000
ai.	Digital Radiology	
	Restricted Funds	1,750,000
aj.	Digital Radiology	
	Restricted Funds	800,000
ak.	Digitract Orbitor Camera	
	Restricted Funds	250,000
al.	EKG Management System	
	Restricted Funds	250,000
am.	EKG Unit	
	Restricted Funds	400,000
an.	EMG Unit	
	Restricted Funds	200,000
ao.	Echocardiography Equipment	
	Restricted Funds	300,000
ap.	Electrophysiology Lab	
	Restricted Funds	1,500,000
aq.	Electrophysiology Laboratory	
	Restricted Funds	1,250,000

ar.	Endoscopy Video/Ultrasound	
	Restricted Funds	250,000
as.	Endoscopy Video/Ultrasound	
	Restricted Funds	300,000
at.	Fluoroscopy Unit	
	Restricted Funds	500,000
au.	Gamma Knife Upgrade	
	Restricted Funds	2,000,000
av.	General Radiography Unit	
	Restricted Funds	800,000
aw.	General Radiography/Fluoroscopic Unit	
	Restricted Funds	500,000
ax.	General Radiology Unit	
	Restricted Funds	500,000
ay.	General Radiology Unit	
	Restricted Funds	800,000
az.	Hyperbaric Chamber	
	Restricted Funds	150,000
ba.	Infectious Disease Detection System	
	Restricted Funds	102,000
bb.	Laboratory Analyzer	
	Restricted Funds	200,000
bc.	Laboratory Analyzer	
	Restricted Funds	200,000
bd.	MRI	
	Restricted Funds	2,500,000
be.	MRI Upgrade	
	Restricted Funds	500,000
bf.	Mobile Fluoroscopy	
	Restricted Funds	200,000
bg.	Mobile Radiology Unit	
	Restricted Funds	200,000
bh.	Neuro-Radiography Unit	
	Restricted Funds	1,500,000
bi.	Nuclear Medicine Camera	
	Restricted Funds	750,000
bj.	OB Ultrasound	
	Restricted Funds	300,000
bk.	Radiation Therapy Unit	
	Restricted Funds	1,800,000
bl.	Radiology Ultrasound	
	Restricted Funds	400,000
bm.	SPECT System	
	Restricted Funds	750,000
bn.	Scrub Dispenser	
	Restricted Funds	225,000
bo.	Surgical Laser	

	Restricted Funds	200,000
bp.	Surgical Laser	
	Restricted Funds	200,000
bq.	Surgical Microscope	
	Restricted Funds	300,000
br.	Surgical Mircoscope	
	Restricted Funds	300,000
bs.	Treatment Planning System	
	Restricted Funds	1,200,000
bt.	UROL Table	
	Restricted Funds	300,000
bu.	Vascular Ultrasound	
	Restricted Funds	300,000
bv.	ALIS	
	Restricted Funds	800,000
bw.	Clinical Information System	
	Restricted Funds	1,000,000
bx.	Clinical Information System	
	Restricted Funds	3,000,000
by.	Clinical System Enterprise	
	Restricted Funds	5,000,000
bz.	Digital Imaging	
	Restricted Funds	750,000
ca.	Digital Medical Record Expansion	
	Restricted Funds	2,000,000
cb.	Infrastructure Communication Enterprise	
	Restricted Funds	5,000,000
cc.	Managed Care Enterprise	
	Restricted Funds	1,000,000
cd.	Mass Storage Capability	
	Restricted Funds	300,000
ce.	Mass Storage Capability	
	Restricted Funds	200,000
cf.	Patient System Enterprise	
	Restricted Funds	4,000,000
cg.	Perioperative Clinical	
	Restricted Funds	350,000
ch.	State Communication Enterprise	
	Restricted Funds	3,000,000
ci.	Telecommunications	
	Restricted Funds	800,000
cj.	Telecommunications	
	Restricted Funds	1,250,000
ck.	Upgrade Disk Capacity	
	Restricted Funds	450,000
cl.	Upgrade Disk Capacity	
	Restricted Funds	250,000

	cm.	Upgrade HIS Computing Facilities		
		Restricted Funds	2,500,000	
	cn.	Upgrade Printing Capacity		
		Restricted Funds	400,000	
	co.	Upgrade Tape Capacity		
		Restricted Funds	250,000	
	cp.	Upgrade Telecommunications Facilities		
		Restricted Funds	250,000	
	cq.	Upgrade Telecommunications Facilities		
		Restricted Funds	750,000	
11.	University of Louisville			
	a.	Americans with Disabilities Act Project Pool		
		Restricted Funds	6,729,000	
	b.	Chlorofluorocarbon Project-Phase II		
		Restricted Funds	1,325,000	
	c.	Chlorofluorocarbon Project, Phase III		
		Restricted Funds		1,851,000
	d.	Code Improvements-Fire Safety Pool		
		Restricted Funds	2,588,000	
	e.	Dental Clinic and Sterilization Renovation		
		Other Funds		3,000,000
	f.	Early Childhood "EDUCARE" Center		
		Restricted Funds	3,300,000	
	g.	Environmental Health and Safety Projects		
		Restricted Funds	1,224,000	
	h.	HSC Parking Garage - Two Additional Floors		
		Restricted Funds	4,454,000	
	i.	Humanities Classroom Renovation		
		Restricted Funds	721,000	
	j.	Land Purchase East of University Hospital - HSC		
		Restricted Funds		5,000,000
	k.	MDR Renovation - Phase I - Building 51		
		Restricted Funds	1,548,000	
	l.	MDR Renovation - Phase II - Building 51		
		Restricted Funds		1,595,000
	m.	MDR Renovation - Phase III - Building 51		
		Restricted Funds		2,583,000
	n.	Major Maintenance Pool - Phase I		
		Restricted Funds	6,142,000	
	o.	Medical School Lab Renovation - Building 55A		
		Restricted Funds	1,717,000	
	p.	New Residence Hall and West Utilities		
		Other Funds	18,277,000	
	q.	Purchase Parking Spaces on Health Sciences Campus		
		Restricted Funds	825,000	
	r.	Research Building (Belknap)		
		Bond Funds	32,040,000	

s.	Research Resources Center Expansion		
	Restricted Funds	1,588,000	
t.	Social Work-Practice Center - Marine Hospital (Portland)		
	Other Funds		7,865,000
u.	Support Services Land Acquisition (Northeast)		
	Restricted Funds		3,820,000
v.	Transgenic Facility		
	Restricted Funds		2,261,000
w.	University Park - Parkway Field/Baseball Stadium		
	Other Funds	2,392,000	
x.	University Park - Track and Field - Soccer and Field Hockey Facility		
	Other Funds	4,987,000	
y.	Utility Distribution Improvements - South		
	Restricted Funds	6,541,000	
z.	Three-Dimensional Echocardiographic Package		
	Restricted Funds	140,000	
aa.	49-Foot Research Vessel		
	Restricted Funds	100,000	
	Federal Funds	400,000	
	Total	500,000	
ab.	750 MHz Nuclear Magnetic Resonance Spectrometer		
	Restricted Funds	400,000	
	Federal Funds	800,000	
	Total	1,200,000	
ac.	Acoustic Imaging 5200 Envision		
	Restricted Funds	176,000	
ad.	Animal Irradiator		
	Restricted Funds	154,000	
ae.	Atomic Absorption (AA) Spectrometer, High Resolution		
	Restricted Funds	110,000	
af.	Autoclave, Large pass-thru		
	Restricted Funds	300,000	
ag.	Automated DNA Sequencer		
	Restricted Funds	149,000	
ah.	Automated Synthesizer		
	Restricted Funds		100,000
	Federal Funds		100,000
	Total		200,000
ai.	Backside Mask Aligner		
	Restricted Funds		154,000
aj.	Bruker AMX 500 Console Upgrade		
	Restricted Funds		100,000
	Federal Funds		100,000
	Total		200,000
ak.	Capillary Electropheresis		
	Restricted Funds		50,000
	Federal Funds		50,000

	Total		100,000
al.	Computerized Cardiac Laboratory		
	Restricted Funds	256,000	
am.	Digital Micro-Luminography System for Transmission Electron		
	Restricted Funds	120,000	
an.	Diode Laser		
	Restricted Funds	100,000	
ao.	EPR Spectrometer Update		
	Restricted Funds		60,000
	Federal Funds		65,000
	Total		125,000
ap.	Echocardiograph Vascular System		
	Restricted Funds	300,000	
aq.	Electronic Darkroom		
	Restricted Funds	113,000	
ar.	Epifluorescence Microscope		
	Restricted Funds		50,000
	Federal Funds		55,000
	Total		105,000
as.	Exicerm Laser		
	Restricted Funds		600,000
at.	FT IR Spectrometer		
	Restricted Funds		75,000
	Federal Funds		75,000
	Total		150,000
au.	Fluorescence Activated Cell Sorter		
	Restricted Funds	352,000	
av.	Gas Chromatography - Mass Spectrometer (GC-MS) High-Resolution		
	Restricted Funds	110,000	
aw.	Gel/Blot Image Analysis System		
	Restricted Funds	140,000	
ax.	High Definition Video System		
	Restricted Funds	300,000	
ay.	High Resolution SEM with Backscatter Detector		
	Restricted Funds		160,000
az.	High Resolution/Mass Spectrometer (GC/MS) System		
	Restricted Funds	470,000	
ba.	Imaging Raman Spectrometer		
	Restricted Funds	85,000	
	Federal Funds	85,000	
	Total	170,000	
bb.	In Vivo Thrombosis Detection and Quantitation System		
	Restricted Funds		168,000
bc.	Integrated Multi-Detector Imaging System		
	Restricted Funds	545,000	
bd.	Intermediate Voltage Transmission Electron Microscope		
	Restricted Funds		350,000

be.	Liquid Chromatograph - Mass Spectrometer		
	Restricted Funds		150,000
	Federal Funds		300,000
	Total		450,000
bf.	MALDI Mass Spectrometer		
	Restricted Funds		200,000
	Federal Funds		200,000
	Total		400,000
bg.	Message Board - University Park		
	Restricted Funds	300,000	
bh.	Metabolic Stress System and Bike		
	Restricted Funds	106,000	
bi.	Molecular Imaging System		
	Restricted Funds		50,000
	Federal Funds		55,000
	Total		105,000
bj.	Nailfold Microvascular Analysis System		
	Restricted Funds	119,000	
bk.	Peak 3D Computerized Motion Measurement and Analysis System		
	Restricted Funds	115,000	
bl.	Peptide Sequencer		
	Restricted Funds	145,000	
bm.	Plasma Enhanced Chemical Deposition System		
	Restricted Funds		133,000
bn.	Protein Sequencer		
	Restricted Funds	191,000	
bo.	Radiographic/Fluoroscopic Imaging Unit		
	Restricted Funds	195,000	
bp.	Radiographic/Fluoroscopic X-Ray System		
	Restricted Funds	317,000	
bq.	Rapid Prototyping System		
	Restricted Funds		376,000
br.	SEM Accessories for Elemental Analysis		
	Restricted Funds		165,000
bs.	SIMS: Materials Characterization Apparatus		
	Restricted Funds		165,000
bt.	Scanning Electron Microscope		
	Other Funds	160,000	
bu.	Scanning Electron Microscope		
	Restricted Funds		115,000
	Federal Funds		115,000
	Total		230,000
bv.	Scanning Tunnelling Microscope		
	Restricted Funds		50,000
	Federal Funds		53,000
	Total		103,000
bw.	Small Artery Reactivity Diagnostic System		

	Restricted Funds		138,000
bx.	Small Vein in Vivo Diagnostic System		
	Restricted Funds	197,000	
by.	Spectroflurometer		
	Restricted Funds		50,000
	Federal Funds		50,000
	Total		100,000
bz.	Stress Echo System		
	Restricted Funds	127,000	
ca.	Surface Analysis Microscope System		
	Restricted Funds		200,000
	Federal Funds		200,000
	Total		400,000
cb.	Trash Compactor		
	Restricted Funds	125,000	
cc.	Ultra High Vacuum Chamber		
	Other Funds	310,000	
cd.	Vascular Smooth Muscle Analyzer		
	Restricted Funds	144,000	
ce.	Video Diagnostic Analysis System		
	Restricted Funds	154,000	
cf.	White Blood Cell Velocity Measurement System		
	Restricted Funds	126,000	
cg.	X-Ray Deffractometer with Area Detector		
	Restricted Funds		225,000
	Federal Funds		225,000
	Total		450,000
ch.	Array Processor/Parallel Processor		
	Restricted Funds		200,000
ci.	Broadcasting Facilities Equipment		
	Restricted Funds	250,000	
	Federal Funds	250,000	
	Total	500,000	
cj.	Client/Server System		
	Restricted Funds	200,000	200,000
ck.	Compressed Video Conferencing Room and Instructional Lab		
	Other Funds	446,000	
cl.	Computer File Server		
	Restricted Funds	220,000	220,000
cm.	Computer Processing System		
	Restricted Funds		3,000,000
cn.	Computer Workstations		
	Restricted Funds		500,000
co.	Dental Clinical Computer System		
	Restricted Funds	500,000	
cp.	Digital Communications Network		
	Restricted Funds	300,000	250,000

cq.	Disk Storage Sub-Systems		
	Restricted Funds	500,000	500,000
cr.	Electronic Medical Record		
	Restricted Funds	2,044,000	
cs.	Engineering/Scientific Processor		
	Restricted Funds	400,000	500,000
ct.	Expand Medical Information Technology Infrastructure		
	Restricted Funds	440,000	
cu.	Fiber Optic LAN/Computer-Based Instruction System		
	Restricted Funds	427,000	
cv.	Mid-Range Computer Systems		
	Restricted Funds	200,000	200,000
cw.	Molecular Dynamics Software and Computer Workstation		
	Restricted Funds	63,000	
	Federal Funds	62,000	
	Total	125,000	
cx.	Network Switching System		
	Restricted Funds	300,000	150,000
cy.	Satellite Uplink		
	Restricted Funds	140,000	
	Federal Funds	240,000	
	Total	380,000	
cz.	Telemarketing System		
	Restricted Funds	133,000	
da.	Theoretical Research Computer System		
	Restricted Funds	54,000	
	Other Funds	50,000	
	Total	104,000	
12.	Western Kentucky University		
a.	Americans with Disabilities Act Accessibility Projects		
	Restricted Funds	816,000	
b.	Academic Complex Roof Replacement		
	Restricted Funds	400,000	
c.	Agriculture Exposition Center HVAC Improvements Phase II		
	Restricted Funds	650,000	
d.	Air Conditioning for Academic - Athletic No. 1		
	Restricted Funds	1,700,000	
e.	Building Envelope/Exterior Door Deferred Maintenance Projects		
	Restricted Funds	444,000	
f.	Campus Energy Conservation		
	Other Funds	2,165,000	
g.	Cherry Hall Window Replacement		
	Restricted Funds	635,000	
h.	Chiller Conversion (R-12 to R-123)		
	Restricted Funds	569,000	
i.	Cooling Towers and Chiller Renovations		
	Restricted Funds	574,000	

j.	McLean Hall Renovation		
	Restricted Funds	3,444,000	
k.	E & G Buildings Interior Projects		
	Restricted Funds	487,000	
l.	E & G Life Safety: Deferred Maintenance Projects		
	Restricted Funds	522,000	
m.	Electrical Deferred Maintenance Projects		
	Restricted Funds	764,000	
n.	Equine Science Teaching Facility		
	Restricted Funds (1997-98 - $205,000)		
o.	Grise Hall/Tate Page Roof Replacement		
	Restricted Funds	808,000	
p.	HVAC/Plumbing Deferred Maintenance Projects		
	Restricted Funds	544,000	
q.	Ivan Wilson Center Chillers Replacement		
	Restricted Funds	500,000	
r.	Campus Improvements		
	Restricted Funds	1,209,000	
s.	Life Safety Fire Alarm Improvements		
	Restricted Funds	476,000	
t.	Postsecondary Education Improvement Act of 1997 Facility		
	Bond Funds	18,500,000	
u.	Property Acquisition		
	Restricted Funds		370,000
v.	Public Radio and Television Transmission Tower		
	Restricted Funds		615,000
w.	Renovation of Craig Alumni Center		
	Restricted Funds		250,000
x.	Renovation of Former Science Library in TCCW		
	Restricted Funds	639,000	
y.	Renovation of Theatre 100 in Gordon Wilson Hall		
	Restricted Funds		450,000
z.	Repair/Replacement of Walks and Lots		
	Restricted Funds	746,000	
aa.	Roof Repair/Replacement - Deferred Maintenance Projects		
	Restricted Funds	877,000	
ab.	Thompson Complex North Wing HVAC		
	Restricted Funds	1,375,000	
ac.	University Farms Improvements		
	Restricted Funds	750,000	
ad.	WKU Primary Electrical Service (State II)		
	Restricted Funds	1,500,000	
ae.	Western Kentucky University Alumni Center		
	Other Funds	1,200,000	10,800,000
af.	Window Repair/Replacement		
	Restricted Funds	596,000	
ag.	Americans with Disabilities Act Accessible Shuttle Buses		

Restricted Funds	330,000	
ah. Confocal Microscope		
Restricted Funds		110,000
ai. Mass Spectrometer		
Restricted Funds	126,000	
aj. Administrative Computing System Upgrade/Replacement		
Restricted Funds	2,100,000	
ak. Computing Network Expansion and Upgrade		
Restricted Funds	855,000	
al. Satellite Uplink		
Restricted Funds	426,000	
am. Telephone Infrastructure Upgrade		
Restricted Funds	750,000	
an. Video Server		
Restricted Funds	801,000	

M. PUBLIC PROTECTION AND REGULATION CABINET

Budget Unit	1998-99	1999-00
1. Department of Insurance		
a. Franklin County - Lease		
2. Public Advocacy		
a. Franklin County - Lease		
3. Public Service Commission		
a. Franklin County - Lease		
b. Public Service Commission Building		
Bond Funds	1,100,000	

N. REVENUE

Budget Unit	1998-99	1999-00
1. Office of the Secretary		
a. Technology Infrastructure Support		
Investment Income	425,000	
b. Franklin County - Lease (100 Fair Oaks)		
c. Franklin County - Lease (200 Fair Oaks)		
d. Franklin County - Lease (Perimeter Park)		

O. TOURISM DEVELOPMENT CABINET

Budget Unit	1998-99	1999-00
The total non-General Fund project costs shown do not reflect additions to the operating budget appropriations.		
1. Kentucky State Fair Board		
a. Maintenance Pool		
Investment Income	300,000	
Restricted Funds	700,000	1,000,000
Total	1,000,000	1,000,000
b. Roof Replacement		
Restricted Funds	800,000	800,000
c. Outdoor Horse Ring		
Restricted Funds	800,000	
2. Department of Fish and Wildlife Resources		
a. Land Acquisition		

Restricted Funds	500,000	500,000
b. Maintenance Pool		
Restricted Funds	200,000	200,000
3. Kentucky Horse Park		
a. Additional Stalls		
Investment Income - Additional	435,000	
b. Maintenance Pool		
Investment Income	375,000	375,000
c. Capital Outlay		
General Fund	100,000	
d. National Horse Center - Infrastructure Development		
Capital Construction Surplus (1997-98 - $377,000)		
e. Primary Electric Line Renovation		
Investment Income	747,000	
4. Department of Parks		
a. Maintenance Pool		
Investment Income	4,200,000	4,200,000
b. Capital Outlay		
General Fund	2,000,000	
c. Technology - Capital Outlay		
General Fund	244,000	
5. Breaks Interstate Park		
a. Additional Lodge Rooms		
General Fund	1,350,000	

A General Fund appropriation up to $1,350,000 is provided contingent upon the Commonwealth of Virginia providing an appropriation which would be matched dollar for dollar up to the maximum amount.

P. TRANSPORTATION CABINET

Budget Unit	1998-99	1999-00
1. Department of Administrative Services		
a. Bowling Green District Office - Reauthorization/Modification ($1,400,000 - Road Fund)		
Road Fund - Additional	2,263,000	
b. Building Renovation and Emergency Repairs - Reauthorization		
Road Fund - Additional	500,000	500,000
c. Bullitt County Maintenance Facility		
Road Fund		845,000
d. Heating, Ventilation, and Cooling Maintenance and Repair		
Road Fund	200,000	200,000
e. Hopkins County Maintenance Facility		
Road Fund		645,000
f. Hydraulic Hoists for Heavy Equipment - Reauthorization		
Road Fund - Additional	50,000	100,000
g. Lewis County Maintenance Facility		
Road Fund	708,000	

h.	Loadometer Station and Rest Area Maintenance and Repair		
	Road Fund	400,000	400,000
i.	Magoffin County Maintenance Facility -		
	Reauthorization		
	Road Fund - Additional	458,000	
j.	Meade County Maintenance Facility -		
	Reauthorization		
	Road Fund - Additional	233,000	
k.	Metcalfe County Maintenance Facility		
	Road Fund	745,000	
l.	Painting and Roof Replacement		
	Road Fund	400,000	400,000
m.	Paving and Landscaping		
	Road Fund	100,000	100,000
n.	Pikeville District Office Addition		
	Road Fund		424,000
o.	Road Maintenance/Various Parks -		
	Reauthorization		
	Road Fund - Additional	1,500,000	1,000,000
p.	Transportation Cabinet Office Building -		
	Reauthorization/Modification		
	($18,900,000 - Bond Funds)		
	Bond Funds - Additional	68,100,000	
q.	Various Environmental Site Investigations/Remediations -		
	Reauthorization		
	Road Fund - Additional		500,000
r.	Various Maintenance Facilities - Secondary Structures		
	Road Fund	250,000	250,000
s.	Various Salt Storage Structures and Repair		
	Road Fund	250,000	250,000
t.	Various Waste Water Treatment and Water Supply Projects -		
	Reauthorization		
	Road Fund-Additional	75,000	75,000
u.	Chemical Testing Equipment		
	Road Fund	175,000	
v.	Highway Design Microfilm Equipment		
	Road Fund	148,000	
w.	Nuclear Density Gauges		
	Road Fund	40,000	35,000
x.	Printing Press		
	Road Fund		204,000
y.	Superpave Testing Equipment		
	Road Fund	200,000	
z.	Weigh In Motion/Traffic Data Collection Equipment (WIM/TCD)		
	Road Fund	292,000	301,000
aa.	Digitized Drivers Licensing		
	Road Fund		900,000

ab. Vehicle Titling and Registration System (KVIS) - Technology Trust Fund		
Road Fund		1,714,000

Q. WORKFORCE DEVELOPMENT CABINET

Budget Unit	1998-99	1999-00
1. General Administration and Program Support		
a. Maintenance Pool		
Investment Income	250,000	250,000
2. Vocational Rehabilitation		
a. Franklin County - Lease		
3. Department for the Blind		
a. Franklin County - Lease		
4. Office of Training and Reemployment		
a. Franklin County - Lease		
5. Department for Employment Services		
a. Unemployment Insurance Imaging System		
Federal Funds	736,000	1,010,000
b. Unemployment Insurance Scanner		
Federal Funds	981,000	
6. Department for Technical Education		
a. Network Connectivity/Vesis Upgrade		
General Fund	2,100,000	

CAPITAL PROJECTS BUDGET PROVISIONS

1. All appropriations to existing line-item capital construction projects expire on June 30, 1998, unless reauthorized in this Act with the following exceptions: (1) a construction contract for the project shall have been awarded by June 30, 1998; (2) permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; (3) grant or loan agreements, if applicable, have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this section, the disposition of 1996-98 appropriated major maintenance pools shall remain subject to the provisions of KRS 45.770(4)(c) and (d). Purchases of major items of equipment require reauthorization if a purchase order has not been executed by June 30, 1998.

2. Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium so that preliminary work on the projects may proceed. However, debt service has been included beginning in fiscal year 1999-2000. Therefore, the sale of any permanent bonds to finance these projects shall occur after January 1, 1999.

3. If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

4. Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding the provisions of KRS 48.720, KRS 48.010, or any section of this Act, the first $1,500,000 of any General Fund excess investment income in fiscal year 1998-99 and fiscal year 1999-2000, respectively, is credited to the General Fund if determined to be excess to the General Fund appropriation needed for the payment of debt service as a direct result of the application of investment income earned on bond proceeds to debt service payments. Any funds above this amount shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting due to any other circumstance shall lapse in accordance with KRS 48.720, KRS 48.010, and other provisions of this Act.

5. Investment income earned from funds credited to the Technology Trust Fund account in the Finance and Administration Cabinet shall accrue to the Capital Construction Investment Income account effective July 1, 1998.

6. The Council on Postsecondary Education subheading in this Part includes a project entitled "Agency Bond Pool." For the Agency Bond Pool, $35,000,000 in projects is authorized to be funded from Restricted Funds-supported bonds. This pool provides funding for individual projects to be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified and recommended by the Council for funding in the 1998-2000 biennium.

The provisions of KRS 45.750 to 45.816 notwithstanding, capital construction projects at institutions of higher education involving no state or federal funds may be authorized between regular sessions of the General Assembly if the projects receive prior approval from both the Council on Postsecondary Education and the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee receives prior notification.

7. Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

8. Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Repair of State-Owned Dams, Land Acquisition, Economic Development projects, Infrastructure projects, Asbestos Abatement projects, Technology Trust Fund projects, systems, and initiatives authorized in Part X of this Act, and the Council on Postsecondary Education Agency Bond Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction. Notwithstanding any provision in this Act, the first $1,500,000 available from invested income shall be credited to the General Fund.

9. If any authorized capital construction project is constructed within the city limits of Frankfort, funding for the project shall include an amount sufficient to meet fifty percent (50%) of the cost of correcting any drainage problems in the area surrounding the capital construction project.

PART III

GENERAL PROVISIONS

1. Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Funds, State Enterprise Funds (State Parks, State Fair Board, Industries for the Blind, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Computer Services, Central Stores, Telecommunications, Prison Industries, Central Printing, Risk Management and Property Management) and selected Fiduciary Funds (Unemployment Compensation and Other Expendable Trust). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which include fees for board and room, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts or other Federal Funds received, income from investments and other miscellaneous federal receipts received by a budget unit, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 1998-99 or fiscal year 1999-2000, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400 to 48.800 and this Act, and with the authorization of the State Budget Director of the Governor's Office for Policy and Management and approval of the Secretary of the Finance and Administration Cabinet.

3. Except as otherwise provided in this Act, a budget unit may requisition for expenditure from its Restricted Funds accounts or Federal Funds accounts, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1999, and during the fiscal year ending June 30, 2000, all receipts placed to the credit of its funds accounts in each respective year, in addition to any balance which the budget unit may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet.

On or before the beginning of each fiscal year, and, if applicable, during each fiscal year, each budget unit shall document and submit to the Finance and Administration Cabinet, the Governor's Office for Policy and Management, and the

Legislative Research Commission a record of Restricted Funds and Federal Funds for each budget unit showing the most current estimates of receipts by sources and expenditures by uses, a comparative statement of any revised estimated receipts and proposed expenditures with appropriation sums specified in the enacted Budget of the Commonwealth, and statements which explain the cause, source, and use for a variance which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the FB 1998-2000 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) on or before the beginning of each fiscal year; (2) on or before October 1; (3) on or before January 1; and (4) on or before April 1.

4. Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400 to 48.800. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

5. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the General Assembly, legislative and executive records, and the statutory budget memorandum.

6. Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account respectively to the extent the Federal Funds otherwise become available.

7. A state agency entitled to Federal Funds which would represent one hundred percent (100%) of the cost of a program shall conform to KRS 48.730.

8. Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account.

9. No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 3 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

10. Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

11. All statutory continuing appropriations in existence at the time this Act takes effect are discontinued and suspended by this Act except as provided by Chapters 42, 96A, 164, 183, 278, and 441 of the Kentucky Revised Statutes. All statutes and portions of statutes in conflict with any of the provisions of this Section, to the extent of the conflict, are suspended, unless otherwise provided by this Act.

12. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made herebefore or hereafter for the fiscal year ending June 30, 1998, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

13. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

14. The Secretary of the Finance and Administration Cabinet shall cause the Governor's Office for Policy and Management, within sixty (60) days upon adjournment of the 1998 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended State/Executive Budget, Judicial Budget and Legislative Budget as enacted by the 1998 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 1998-2000 biennium, and based upon supporting documentation and legislative records as considered by the 1998 Regular Session of the General Assembly and the statutory budget memorandum. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each part of this Act and by KRS 48.400

to 48.800, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

15. Pursuant to KRS 48.400, the Secretary of the Finance and Administration Cabinet shall monitor and report on the financial condition of the Commonwealth.

16. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

17. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, if Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

18. Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in another Act of the 1998 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 1996 Regular Session to sine die adjournment of the 1998 Regular Session is not confirmed by the 1998 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall, in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 1997-98 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 1998 Regular Session of the General Assembly. The Legislative Research Commission shall forward the documentation to the appropriate committees.

19. Notwithstanding KRS 48.705(2), there shall be no General Fund surplus revenue receipts or unexpended balances of appropriations deposited in the budget reserve trust fund account for fiscal year 1998-99 or fiscal year 1999-2000 except as otherwise provided in this Act. Existing funds in the account in an amount specified in this Act may be used as provided otherwise in this Act or as designated in Part VI, General Fund Budget Reduction Plan, if General Fund receipts during fiscal year 1998-99 or fiscal year 1999-2000 are not sufficient to meet the level of General Fund appropriations included in biennial budget bills or any enactment by the 1998 General Assembly which contains an appropriation provision.

20. Notwithstanding KRS 61.565, the employer contribution rate for the Kentucky Employees Retirement System from July 1, 1998, through June 30, 2000, shall be no more than 8.03 percent for non-hazardous duty employees and 18.66 percent for hazardous duty employees; for the same period, the employer contribution for employees of the State Police Retirement System shall be no more than 23.41 percent.

21. By August 15, 1999, the Finance and Administration Cabinet, in conjunction with the Consensus Forecast Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

22. By October 15, 1999, the Finance and Administration Cabinet shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Revenue Cabinet shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

23. Any appropriation item and sum in this Act and in an appropriation provision in another act of the 1998 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

24. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

25. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

26. It is the intent of the General Assembly that the Executive Branch implement actions necessary to achieve cost savings as intended, authorized, and directed by 1996 Kentucky Acts, Chapter 380, Part X, by authorizing the Executive Branch, within the limitations provided for in this Act, to transfer General Fund appropriation amounts related to Technology Trust Fund savings from one budget unit to another budget unit solely within the Cabinets for Families and Children, Finance and Administration, Health Services, Justice, Natural Resources and Environmental Protection, Workforce Development, and the Department of Education. Any transfer of General Fund appropriation amounts related to Technology Trust Fund savings from one budget unit to another budget unit shall be made only within each specified Cabinet and the Department of Education and

shall be limited to the General Fund cost savings amounts identified in the 1998-2000 Executive Branch budget recommendation and executive records. The Secretary of any of the specified cabinets and the Commissioner of the Department of Education may submit requests to the State Budget Director of the Governor's Office for Policy and Management for the transfer of General Fund appropriation authority. Such requests shall specify the need for the transfer of General Fund appropriation authority and the manner in which such a transfer would better achieve the General Fund cost savings. Any transfers made under this provision for any of the cabinets identified above or the Department of Education shall result in no change to the total value of the General Fund cost savings amounts as identified in the 1998-2000 Executive Branch budget recommendation and executive records for the individual cabinets specified above or the Department of Education. Any transfer made under this provision shall be made pursuant to KRS 48.500 and shall be reported, in writing, to the Interim Joint Committee on Appropriations and Revenue.

27. It is the intent of the General Assembly that the Secretary of the Finance and Administration Cabinet, the Secretary of the Governor's Executive Cabinet, and the State Budget Director of the Governor's Office for Policy and Management shall implement actions for the Executive Branch necessary to achieve the General Fund cost savings intended and authorized by the 1996 Kentucky Acts, Chapter 380, Part X. The General Assembly hereby recognizes and ratifies the actions of the Secretary of the Finance and Administration Cabinet, upon recommendation of the State Budget Director of the Governor's Office for Policy and Management, revising the General Fund allotment schedule for fiscal year 1997-98 for purposes of making unavailable for expenditure General Fund allotments equal in value to the General Fund cost savings amounts identified in the 1998-2000 Executive Branch budget recommendation and executive records.

28. For fiscal year 1998-99 and fiscal year 1999-00, the first $6,000,000 of any unclaimed prize money held in the corporate operating account of the Kentucky Lottery Corporation shall be added to the pool from which future prizes are to be awarded or used for special prize promotions, and any amount in excess of $6,000,000 shall be transferred to the affordable housing trust fund established by KRS 198A.710.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. Notwithstanding KRS 18A.010(2), for the 1998-2000 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 1998-2000 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. On July 1, 1998, the Personnel Cabinet shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of permanent and other equivalent employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Secretary of Personnel may authorize, the employment of individuals in addition to the authorized complement for the duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. Pursuant to KRS 18A.355, an increment of five percent (5%) is provided in both fiscal year 1998-99 and fiscal year 1999-2000 on the base salary or wages of each eligible state employee on his anniversary date.

PART V

FUNDS TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 1998-99 and fiscal year 1999-2000.

		1998-99	1999-00
1.	Fire and Tornado Insurance Fund (KRS 56.095; 56.150; 56.180)	2,000,000	2,000,000
2.	Insurance Premium Surcharge (KRS 136.392)	2,500,000	
3.	Charitable Gaming Regulatory Account (KRS 238.570)	2,000,000	2,000,000
4.	Bond Repayments (1996 Ky. Acts ch. 380)	2,000,000	2,000,000
5.	Investment Income	3,000,000	3,000,000

	(KRS 42.500 (12))		
6.	Department of Financial Institutions	2,500,000	2,500,000
	(KRS 287.485)		
	Total	14,000,000	11,500,000

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $6,169,065,000 in fiscal year 1998-99 and $6,469,702,000 in fiscal year 1999-2000 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Unappropriated funds available in the General Fund Surplus Account established in KRS 48.700 shall be applied toward the revenue shortfall.

(3) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(4) Excess General Fund appropriations derived from reduced debt service requirements pursuant to the provisions in this Act.

(5) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(6) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed twenty-five percent (25%) of the trust fund balance in fiscal year 1998-99 and fifty percent (50%) of the trust fund balance in fiscal year 1999-2000.

(7) If the actions contained in subsections (1) through (6) of this section are insufficient to eliminate the revenue shortfall up to five percent (5%) of the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection and subject to the limit imposed under KRS 48.130 and 48.600.

PART VII

ROAD FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is established a Road Fund Budget Reduction Plan for fiscal year 1998-99 and fiscal year 1999-2000. In the event of an actual or projected deficit in Road Fund revenue receipts of five percent (5%) or less than the revenue estimates of $1,021,407,900 in fiscal year 1998-99 and $1,062,707,300 in fiscal year 1999-2000 as determined under KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service in accordance with KRS 48.130. No budget revision action shall be taken in excess of the actual or projected deficit.

PART VIII

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of the expenditure from Road Fund Surplus Account in excess of $9,709,800 in fiscal year 1997-98 and $10,704,700 in fiscal year 1998-99 as provided in the enacted Road Fund budget. This Road Fund Surplus Expenditure Plan provides for additional moneys for nonrecurring expenditures for which an appropriation was not made in this Act, or for a program or service authorized by law for which an appropriation was not made or which program was not fully funded.

The Secretary of the Finance and Administration Cabinet shall determine, after the close of fiscal year 1997-98 and fiscal year 1998-99, based on the official financial records of the Commonwealth, and in accordance with KRS 48.120, the amount of excess Road Fund tax receipts available for expenditure through this Road Fund Surplus Expenditure Plan. The amount of excess receipts available shall be determined after all allocations required by statutory Road Fund revenue sharing programs have been adjusted pursuant to the applicable statutes. The Secretary of the Finance and Administration Cabinet shall communicate this information to the Secretary of the Transportation Cabinet in a timely manner.

The Secretary of the Transportation Cabinet is authorized to expend these excess tax receipts, up to the amount reported by the Secretary of the Finance and Administration Cabinet, in the State Construction program and are appropriated for this purpose.

PART IX

SPECIAL PROVISIONS

GOVERNMENT OPERATION

1. ATTORNEY GENERAL

a. Legal Services Contracts: The Attorney General shall present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies shall agree to make arrangements with the Attorney General to perform the legal work and compensate the Attorney General for the legal services. Immediately upon the time of the agreement, twenty-five percent (25%) of the estimated total cost of the agreed cost of legal services shall be credited to a restricted fund account out of which expenditures may be made. Over the balance of the terms of the agreement, quarterly installments shall be credited to the account. The final quarterly payment shall be made within thirty (30) days of the completion of the legal agreement. A copy of the legal services agreement and financial terms shall be provided to the Finance and Administration Cabinet. The Finance and Administration Cabinet shall execute the financial arrangements as provided under this section, notwithstanding any other provision of the Kentucky Revised Statutes. State agencies shall submit any proposals for legal services to the Office of the Attorney General to determine if the legal services can be performed by the Attorney General.

If the Attorney General determines that the provisions in this section require additional staff positions, the Personnel Cabinet and the Governor's Office of Policy and Management shall take timely action to enable the Attorney General to recruit and employ the personnel the Attorney General has determined as necessary. Actions taken under the terms of this section shall be reviewed by the Interim Joint Committee on Appropriations and Revenue as provided in this Act.

b. Deputy and Assistant Attorneys General Salaries: Notwithstanding KRS 15.100, the Attorney General may set the salary for the deputy attorney general and the salary for the two (2) assistant deputy attorneys general at a rate less than that required in KRS 15.100.

c. Health Care Rate Intervention: In addition to such funds as may be appropriated, this Office may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

d. Tobacco Rebate Program: Any fund balance in the Tobacco Rebate Account maintained by the Office of the Attorney General, as of June 30, 1998 shall be expended pursuant to Administrative Order 97-4. At least 30% of the fund balance shall be for agricultural equipment to address labor market shortage areas.

e. Asbestos Litigation Reimbursement: This Office shall request from the Governor's Office for Policy and Management and the Finance and Administration Cabinet reimbursement for actual administrative costs related to Asbestos Litigation Recovery. Reimbursement shall not exceed $20,000 for fiscal year 1997-98 and a total of $98,500 for fiscal biennium 1998-2000. Reimbursement is contingent on receipt and deposit of recoveries to the State Treasury after April 15, 1998, sufficient to fund such costs. Any asbestos litigation funds received in excess of the amounts specified above, up to a maximum of $145,000 in fiscal year 1998-99 and $145,000 in fiscal year 1999-2000, shall be transferred to the Unified Prosecutorial System for prosecutorial training subject to procedures and conditions contained in Part III.

f. Annual and Sick Leave Service Credit: Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

g. Tobacco Settlement Account: There is created in the State Treasury a tobacco settlement account to be credited with any funds received from a national settlement agreement between the tobacco industry and the Attorney General or any federal legislation related to the agreement. Any funds from the settlement agreement or related federal legislation shall not be expended until appropriated by the General Assembly. The General Assembly's highest priority for distributing any funds from this account shall be for tobacco farmers and tobacco-impacted communities and health-related areas.

2. AUDITOR OF PUBLIC ACCOUNTS

a. State Agencies Audit Services Contracts: No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

b. Audit Records and Status Reports: The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The auditor shall maintain a record of all time and expenses for each audit or investigation.

c. Charges for Federal, State, and Local Audits: Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of one hundred twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" (OMB Circular No. A-128) has changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 1998 General Assembly, subject to the conditions and procedures provided in this Act.

Any additional expenses incurred by the Auditor of Public Accounts for auditing a state agency upon its request, or when the audit is not required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report, or the provisions contained in the "Single Audit Act of 1984," shall be charged to the agency requesting the audit.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon.

d. EMPOWER Kentucky Audit Expenses: The Auditor of Public Accounts shall charge for any consultation, training, and technology upgrade expenses incurred because of EMPOWER Kentucky and shall be paid by the client agencies.

3. DEPARTMENT OF AGRICULTURE

a. Kentucky Farm Winery Corporation: The Kentucky Farm Winery Corporation shall be attached to the Department of Agriculture for administrative purposes.

4. PERSONNEL BOARD

a. Administrative Hearings Notice: Notwithstanding KRS 13B.050(2), the Personnel Board shall send notices of administrative hearings by first-class mail.

5. LOCAL GOVERNMENT

a. Flood Control Matching Fund Project Review: The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Natural Resources and Environmental Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

6. KENTUCKY VETERANS' CENTER

a. Weekend and Holiday Premium Pay Incentive: The Kentucky Veterans' Center is authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the fiscal biennium 1998-2000.

ECONOMIC DEVELOPMENT

7. OFFICE OF THE SECRETARY

a. East and West Kentucky Corporations' and Regional Offices' Strategic Plan: The East and West Kentucky Corporations shall each submit an annual plan to the Interim Joint Committee for Appropriations and Revenue and to the Cabinet for Economic Development defining and outlining their respective roles and responsibilities as they relate to, but do not duplicate, the programs of the Cabinet for Economic Development. The Cabinet for Economic Development shall provide to the Interim Joint Committee for Appropriations and Revenue an annual plan for the Regional Offices defining and outlining their efforts toward maximizing return on investments and reducing duplicative efforts with other regional development groups.

b. Regional Industrial Park Program Reports: The Cabinet shall provide a progress report of the Regional Industrial Park Program to the Legislative Research Commission for referral to the appropriate committees by December first of each fiscal year.

8. FINANCIAL INCENTIVES

a. Bluegrass State Skills Corporation: If legislation is enacted by the General Assembly to utilize training investment credits for workforce training, the Bluegrass State Skills Corporation shall submit quarterly progress reports of this program to the Legislative Research Commission for referral to appropriate committees.

b. Kentucky Woods Product Competitiveness Corporation Reports: Notwithstanding KRS 154.47-035, beginning on or before January 15, 1999, and every year thereafter, the Kentucky Woods Product Competitiveness Corporation shall submit a written status report on its projects and activities to the Legislative Research Commission for referral to the appropriate committees.

9. COMMUNITY DEVELOPMENT

a. Regional Offices: The Regional Offices shall submit quarterly program and status reports to the Legislative Research Commission for referral to the appropriate committees.

b. Flexible Manufacturing Network Program Reports: The Cabinet shall continue to provide quarterly program and financial status reports of the Flexible Manufacturing Network program to the Legislative Research Commission for referral to the appropriate committees.

DEPARTMENT OF EDUCATION

10. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

a. Allocation of Support Education Excellence in Kentucky Funds: The General Fund appropriations to the base Support Education Excellence in Kentucky (SEEK) program are intended to provide a base guarantee of $2,839 per student in average daily attendance in fiscal year 1998-99 and $2,924 per student in average daily attendance in fiscal year 1999-2000 as well as to meet the other requirements of KRS 157.360, notwithstanding KRS 157.360(2)(c). Funds allocated for the SEEK base and its adjustment factors and not needed for the base or a particular adjustment factor may be allocated to other adjustment factors if funds are insufficient. The following priority order shall be followed in any allocation: exceptional children, at-risk students, home and hospital instruction, and pupil transportation. Excess funds that exist after the SEEK base and all SEEK adjustment factors have been fully funded shall be reallocated on a pro rata average daily attendance (ADA) basis with forty percent (40%) of the excess funds for preschool education and sixty percent (60%) of the excess funds to those districts that provide a full day program for entry level students, except any excess funds received by a school district in a county having a city of the first class pursuant to this provision, shall reallocate its share to local schools within the district on a pro rata average daily attendance (ADA) basis with twenty-five percent (25%) of the funds for preschool education and seventy-five percent (75%) of the funds to those schools that provide a full day program for entry level students. If either the aggregate base SEEK program appropriations or the Tier I component appropriations in either year of the 1998-2000 fiscal biennium fall short of the amounts intended under KRS 157.310 to 157.440, or any other provision of this Act, any surplus funds from the base SEEK program or from the Tier I component may be transferred to the respective program or component experiencing the shortfall. Any transfer shall require approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet and the written request of the Commissioner of Education.

Funds appropriated to the Support Education Excellence in Kentucky program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the Support Education Excellence in Kentucky (SEEK) program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the Support Education Excellence in Kentucky program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the Support Education Excellence in Kentucky program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

b. Minimum Statewide Salary Schedules: The following is the minimum statewide salary schedule for fiscal year 1998-99 and fiscal year 1999-2000.

Rank	I	II	III	IV	V
Experience					
0-3 years	25,200	22,580	19,910	17,150	15,810
4-9 years	27,840	25,200	22,580	17,150	15,810
10-14 years	31,260	28,600	25,950	17,150	15,810
15-19 years	32,260	29,610	26,950	17,150	15,810
20 years and over	32,760	30,110	27,450	17,150	15,810

11. EXECUTIVE POLICY AND MANAGEMENT

a. Employment of Personnel: The Department of Education may fill, through memoranda of agreement, not more than fifty percent (50%) of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

12. MANAGEMENT SUPPORT SERVICES

a. Funding for Employer Health and Life Insurance and Retirement Contributions: If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. If the appropriations for either local school district teachers' retirement employer match or local district health and life insurance fall short of statutory requirements, any surplus funds from the other appropriation unit may be transferred to the appropriation unit experiencing the shortfall. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. Notwithstanding the provisions of KRS 45.229, any unexpended local school district teachers' retirement employer match funds shall not lapse at the end of fiscal year 1998-99 but shall be available if needed in fiscal year 1999-2000.

Included within the General Fund appropriation for local school district employee health and life insurance is funding to cover costs associated with the Personnel Cabinet's administrative activities including providing life and health insurance for local school district employees. Accordingly, the sum of $2.00 per month per employee participating in the state-provided life and health insurance program in fiscal year 1998-99 and $2.25 per month per employee participating in the state-provided life and health insurance program in fiscal year 1999-2000 shall be remitted to the Personnel Cabinet by the Department of Education from the General Fund appropriation for local school district health and life insurance.

b. Kentucky Education Technology System: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission in consultation with the Kentucky Board of Education and the Kentucky Department of Education shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

c. Teachers' Compensation Pilot Project: The Kentucky Board of Education shall recommend a comprehensive professional compensation plan for certified staff and conduct a pilot program in one (1) or more local school districts. The pilot project shall recognize a teacher's professional competency, skills, and knowledge; contributions to improve schools and student achievement and learning; professional involvement in local, state, and national organizations; and certification from the National Board for Professional Teaching Standards.

13. LEARNING RESULTS SERVICES

a. School Rewards Trust Fund: Distribution of rewards to local schools shall be based on policy established by the Kentucky Board of Education.

b. Kentucky Education Technology System: The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

c. Distinguished Educators: Notwithstanding KRS Chapter 158 and KRS Chapter 161, all Distinguished Educators assigned to a school or district on or after July 1, 1998, shall receive a salary supplement of thirty-five percent (35%) of their annual salary for each year of service in that capacity. This salary supplement shall not be included in the total salary compensation calculation for any cost-of-living adjustment or retirement benefits to which the employee may be entitled.

14. LEARNING SUPPORT SERVICES

a. Family Resource and Youth Services Centers: Funds appropriated to establish Family Resource and Youth Services Centers shall be transferred in fiscal year 1998-99 and in fiscal year 1999-2000 to the Cabinet for Families and Children consistent with the intent of KRS 156.497. The Cabinet for Families and Children is authorized to use, for administrative purposes, no more than three percent (3%) of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. The Department of Education is authorized to retain $70,400 in fiscal year 1998-99 and $74,300 in fiscal year 1999-2000 from the funds appropriated for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

b. Education Professional Standards Board (EPSB): Notwithstanding any statute to the contrary, the EPSB may collect fees for the issuance of certifications. EPSB may charge the following fees at the corresponding amounts: issuance or reissuance (renewal) of regular certificate (to include all previously issued certifications and endorsements) - $50; each transaction to add area(s) of certification or rank - $50; issuance of five-year substitute certificate - $15; issuance of duplicate certificate - $25; reissuance of limited certification - $35.

c. Community After School Programs: It is the intent of the General Assembly the funds provided for the expansion of the Community After School Programs in Part I, Operating Budget, shall be focused on children in grades K-8, and at a minimum shall be located within local school districts 365, 415, and 441.

EDUCATION, ARTS, AND HUMANITIES

15. OFFICE OF THE SECRETARY

a. East Kentucky Center for Science, Math, and Technology Resources/Exhibits Work Center: The East Kentucky Center for Science, Math, and Technology Resource/Exhibit work center, coal mine simulation project, and planetarium/multi-media center, including outdoor study area, referenced as project number 0029, Part X, General Fund Surplus Expenditure Plan, shall be located on the campus of Prestonsburg Community College and administered by Prestonsburg Community College.

b. Four Rivers Center: If the Secretary of the Finance and Administration Cabinet determines that the amount of actual General Fund undesignated fund balance available for expenditure in fiscal years 1997-98 or 1998-99 is sufficient to fund Four Rivers Center - Paducah (Priority # 23) of the Statewide Infrastructure Fund, the appropriated funds shall be made available to the Four Rivers Center for the Performing Arts, Incorporated as soon as a Memorandum of Agreement is executed between the Four Rivers Center for the Performing Arts, Incorporated and the Education, Arts and Humanities Cabinet and approved by the Governor's Office for Policy and Management. The Memorandum of Agreement shall set out requirements to assure proper oversight, reporting, and accountability, and shall specifically set out procedures for handling funds prior to construction.

16. TEACHERS' RETIREMENT SYSTEM

a. Distinguished Educators' Retirement Benefits: Notwithstanding KRS Chapter 158 and KRS Chapter 161, salary supplements received by persons selected as distinguished educators on or after July 1, 1998, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

17. SCHOOL FACILITIES CONSTRUCTION COMMISSION

a. Local Districts Facilities Plans: Notwithstanding the provisions of KRS 157.622(3), funds allocated by the School Facilities Construction Commission to local school districts for fiscal year 1998-99 and fiscal year 1999-2000 shall be applied to the projects listed in the most current facility plan approved for the district by the Kentucky Board of Education and the funds shall be applied to projects in the priority order listed in the plan, except any funds received by local school district number 175 pursuant to KRS 157.611 to 157.640 shall be utilized to complete the construction and renovation of any constructed or authorized projects for academic or nonacademic facilities prior to initiating any new construction or renovation projects.

b. Accumulated School Facilities Construction Credits: Notwithstanding KRS 157.622(5), local school districts may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed six (6) years.

c. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission in consultation with the Kentucky Board of Education and the Kentucky Department of Education shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 1998-2000 fiscal biennium.

FAMILIES AND CHILDREN

18. CABINET FOR FAMILIES AND CHILDREN

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

b. Reorganization: Pursuant to the provisions of KRS Chapter 18A, a state employee who is affected by an act related to the reorganization or privatization of the department or agency in which the employee is employed shall have the right to refuse a position which is more than fifty (50) miles from the employee's residence. A state employee whose position is currently protected by the provisions of KRS Chapter 18A and who is affected by layoff or reorganization of the department or agency in which the employee is employed shall not be placed in a position which is not covered by the provisions of that chapter.

c. Fund Transfers: To maximize funding including child care federal funds and to meet the needs of the Temporary Assistance to Needy Families (TANF) recipients and other low income families, the cabinet shall request, through the interim appropriation increase process pursuant to KRS 48.630, any transfers of funds between appropriation units or any additional resources, not appropriated, to accomplish these purposes.

19. SOCIAL INSURANCE - BENEFITS

a. Energy Assistance Trust Fund: Notwithstanding KRS 42.560, only those Restricted Funds necessary to supplement Federal Funds in order to maintain program levels as appropriated, are authorized from the Energy Assistance Trust Fund for fiscal year 1998-99 for the Home Energy Assistance and Weatherization programs.

b. Education for Recipients of Public Assistance: The Department for Social Insurance shall make available to a minimum of 3,700 public assistance recipients, or 7% of total public assistance recipients, placements in Postsecondary or Vocational education. The recipients shall receive all support services provided to employed public assistance recipients including transportation and child care. The funding source shall be determined by the Cabinet for Families and Children. Work requirements shall include those required by the Postsecondary or Vocational educational placement as part of the required program of study or financial assistance. If allowable by Federal regulations related to Welfare Reform work participation rates, work requirements shall be limited to those required by the Postsecondary or Vocational educational placement as part of the required program of study or financial assistance.

c. Personal Care Homes: The Cabinet for Families and Children shall implement a $2.00 per day increase in the payment standard for Personal Care recipients effective upon promulgation of 904 KAR 2:015. The source of funds for this increase is General Fund moneys for state fiscal year 1997-98 and the Food Stamp Enhanced Funding Account Number 63-48-708-L540 for state fiscal year 1998-99. The Department for Medicaid Services shall request federal waivers to utilize Medicaid funding for Personal Care recipients in the State Supplementation Program.

20. DEPARTMENT FOR SOCIAL SERVICES

a. Emergency Shelter: The General Fund appropriation for Alternatives for Children Program includes $450,000 each year for Private Child Care Emergency Shelter at the Home for the Innocents for temporary emergency services.

b. Outreach Programs: General Fund appropriation of $150,000 each year is provided for Outreach Resource Centers Services for adults and children services expansion through the Mountain Outreach in McRoberts ($100,000 operating expenses each year) and Sarah's Place Women's Resource Center in Sandy Hook ($50,000 operating and renovation expenses each year).

c. Homecare Match: Notwithstanding KRS 205.460, entities contracting with the Cabinet to provide essential services under KRS 205.455 and this provision shall provide equal to or greater local match than the amount in effect during the fiscal year 1997-98. Local match may include any combination of materials, commodities, transportation, office space, personal services or other types of facility services, or funds. The Secretary of the Cabinet for Families and Children shall prescribe the procedures to certify the local match assurance.

d. Budget and Financial Administration: Prior to June 1, 1998, the Finance and Administration Cabinet shall establish separate appropriation units for fiscal years 1998-99 and 1999-2000 within the Department for Social Services (DSS) to record and report administration costs distinct from direct services costs with their respective sources of funding. The DSS administration costs shall include, but not be limited to, central office employees, contracted employees in the central office and through state universities, and district managers. The DSS direct services costs shall include, but not be limited to, field family service workers, foster care payments, and private child care contract payments. Placement of other costs such as county office managers shall be determined by the commissioner of DSS. Expenditures by unit shall be provided for each appropriation unit and shall include, but is not limited to, Family Based Services, Private Child Care, Foster Care, Adult Services, and Child Day Care. By July 1, 1998, DSS shall provide (a) a description of costs components including position titles within each appropriation unit, (b) a distribution of the enacted budget between the two appropriation units, and (c) a comparative distribution of fiscal year 1996-97 actual expenditures and fiscal year 1997-98 revised budget between the two appropriation units.

21. AGING SERVICES

a. Medicaid Services Waivers: By January 1, 1999, the Department for Medicaid Services shall request federal waivers, to be effective by July 1, 1999, to utilize Medicaid funding for the following: (a) homecare services, (b) adult day care/alzheimer's respite care, (c) personal care attendants, and (d) a long term care case management demonstration project.

FINANCE AND ADMINISTRATION

22. FINANCE AND ADMINISTRATION CABINET

a. Federally Assisted Wastewater Loan Fund and Federally Assisted Water Supply Revolving Fund: $9,351,000 in bonds is reauthorized for the Federally Assisted Wastewater Loan Fund and the Federally Assisted Water Supply Revolving Fund. The Secretary of the Finance and Administration Cabinet shall utilize the bond funds to maximize Federal Funds available for both funds.

HEALTH SERVICES

23. CABINET FOR HEALTH SERVICES

a. Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Cabinet shall maximize all Federal Funds for programs within the Cabinet.

24. MEDICAID ADMINISTRATION

a. Medicaid Waiver Requests: By January 1, 1999, the Department for Medicaid Services shall request federal waivers, to be effective July 1, 1999, to utilize Medicaid funding for the following: (a) substance abuse services for pregnant women; (b) homecare services; (c) Alzheimer's respite care; (d) personal care attendants; (e) a long term care case management demonstration project; and (f) personal care homes/state supplementation payments to the extent that current federal law would allow recipients to be limited to state supplementation clients.

b. Medicaid Waiver Process: Funds for implementation of Medicaid expansion requests within the Cabinet for Health Services and Cabinet for Families and Children shall be available upon approval of the waivers by the Health Care Financing Administration (HCFA). The Cabinets shall proceed aggressively on developing waiver applications for submission to HCFA for their review and approval.

25. MEDICAID SERVICES - BENEFITS

a. Hospital Indigent Patient Reporting: Notwithstanding KRS 205.640(5)(d)1., hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments.

b. Hospital Indigent Patient Billing: Notwithstanding KRS 205.640(6), hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

c. Provider Tax Information: Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size type set as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Division of Licensing and Regulation shall include this provision in facilities' annual licensure inspection.

d. Indigent Care Posting: Any provider who receives payment from the Disproportionate Share Hospital Program shall post a sign conspicuously in the lobby, in at least a 16-point type set, stating that they participate in the Disproportionate Share Hospital Program and are consequently required to provide indigent care. Failure to comply with this provision shall result in suspension from the Disproportionate Share Hospital Program. The Division of Licensing and Regulation shall include this provision in facilities' annual licensure inspection.

e. Settlement of Obligations Incurred Prior to Prepaid Capitation: The Department is authorized to fulfill financial obligations incurred prior to implementation of prepaid capitation.

f. Disproportionate Share Hospital Payments: Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the Federal Balanced Budget Act of 1997.

g. Quality and Charity Care Trust Fund: No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Hospital Indigent Care Assurance Program (HICAP) for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Health Services shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department of Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

h. Nursing Facility Budget: The Medicaid nursing facility allocation for fiscal year 1997-98 of $504,000,000 shall be increased a minimum of three percent (3%) in each year of the biennium.

i. Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12 month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget, explain any significant variances which may occur, and distinguish between expenditures for continuing and new programs. Measurement of any savings initiatives instituted shall compare budgeted savings with actual savings.

26. DEPARTMENT FOR PUBLIC HEALTH

a. Fund Reallocations: The $220,000 General Fund allotment for the eastern and western Kentucky mobile dental units shall be reallocated as follows: (a) Morehead State University Wellness Program, $120,000 in each year to expand community services and provide regional comprehensive wellness services including substance abuse services and a physical fitness program; and (b) $100,000 in fiscal year 1998-99 to establish the Letcher County Community Health Education Center in the Harry M. Caudill Library.

b. Public Health Department Services for Indigent Persons: Kentucky Public Health Departments shall, to the extent possible, continue to provide clinical services for the indigent people of Kentucky including, but not limited to, the following services: Primary Care, Communicable Disease, AIDS, Adult Health, Child Health Services, Dental Health, Family Planning, Nutrition Services, Epidemiology and Disease Prevention, the Women, Infants and Children (WIC) Program, the Maternal and Child Health Program, and Laboratory Services.

c. Feasibility Study: The sum of $25,000 General Fund in fiscal year 1998-99 shall be allocated to the University of Kentucky Center for Rural Health to conduct a study on the feasibility of providing rehabilitation services in eastern Kentucky for stroke, cardiac, and other similar types of patients.

d. Prescription Tracking System: Any unexpended dollars in fiscal year 1998-99 for the prescription tracking system shall not lapse but shall be carried forward to fiscal year 1999-2000 to be utilized for the same purpose.

27. DEPARTMENT FOR MENTAL HEALTH/MENTAL RETARDATION

a. Computer System: Any unexpended dollars from the $3,000,000 budgeted in fiscal year 1997-98 for hardware, software, or any other enhancements to the Department for Mental Health/Mental Retardation's (MH/MR) computer system which would enable them to collect and monitor information from the MH/MR boards/centers and state facilities shall not lapse but carry forward into fiscal year 1998-99 and fiscal year 1999-2000 to continue for the same purpose, notwithstanding KRS 45.229.

b. Lifeskills Comprehensive Care Board: The sum of $100,000 General Fund in each year of the biennium shall be allocated to the Association of Retarded Citizens, or an appropriate affiliate, for the following purposes: (a) to purchase and operate a disabilities equipped vehicle to meet the transportation needs of their clients; (b) administrative costs thereof, not to exceed ten percent (10%) of this appropriation; and (c) other required services for clients served to be covered by the excess of this appropriation over the amount required to purchase and operate the disabilities equipped vehicle.

c. Assistive Technology Loan Fund: The sum of $100,000 General Fund in each year of the biennium shall be allocated to the Vocational Rehabilitation Program in the Workforce Development Cabinet to establish a revolving loan pool for the Assistive Technology Loan Fund for persons with disabilities pursuant to KRS 151B.470.

28. CERTIFICATE OF NEED

a. Certificate of Need Exemption: Notwithstanding KRS 216B.020, the issuance of a certificate of need shall not apply to the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of a hospital or the following health services performed on site in an existing health facility when the amortization cost per year is less than six hundred thousand dollars ($600,000) and the provider gives notice of intent to perform the services by December 30, 1991; psychiatric care where chemical dependency services are provided, level one (1) and level (2) neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are performed on site as of July 15, 1990.

29. ADMINISTRATIVE SUPPORT

a. Appropriation Revisions: Any authorizations in the State/Executive Budget Bill with respect to transfer, increase, or decrease of appropriated funds for the Cabinet for Health Services and Cabinet for Families and Children shall comply with the General Provisions of this Act.

b. Program Administration Contract Reporting: A summary of all Program Administration contracts shall be provided to the Interim Joint Committee on Health and Welfare and the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

JUSTICE

30. JUSTICE ADMINISTRATION

a. Legal Aid Restrictions: These funds shall be used for providing and arranging civil legal representation for eligible low-income Kentuckians who are currently underserved and for purposes consistent with federal law and regulations. These funds shall not be used for lobbying on issues related to abortion. The recipient of this appropriation shall report annually to the Interim Joint Committee on Appropriations and Revenue on the dispositions of the grant.

31. STATE POLICE

a. Salary Policies: The Department of State Police is directed to apply a sufficient vacancy credit to achieve the following salary increases. A sufficient vacancy credit shall be maintained in fiscal year 1999-2000 to support continuation funding for this increase.

General Fund moneys in the amount of $2,468,200 in fiscal year 1998-99 and $5,081,900 in fiscal year 1999-2000 are provided to support a $2,000 pay raise in fiscal year 1998-99 and an additional $2,000 raise in fiscal year 1999-2000 for sworn officers. This raise effectively raises the sworn officer salary by $2,000 in fiscal year 1998-99 and by $4,000 in fiscal year 1999-2000 over the current salary.

General Fund moneys in the amount of $216,200 in fiscal year 1998-99 and $649,400 in fiscal year 1999-2000 are provided to support a $1,250 pay raise in fiscal year 1998-99 and an additional $2,500 raise in fiscal year 1999-2000. This raise effectively raises the dispatcher salary by $1,250 in fiscal year 1998-99 and by $3,750 in fiscal year 1999-2000 over the current salary.

General Fund moneys in the amount of $50,500 in fiscal year 1998-99 and $106,100 in fiscal year 1999-2000 are provided to support a $2,000 pay raise in fiscal year 1998-99 and an additional $2,000 raise in fiscal year 1999-2000 bomb and arson investigators. This raise effectively raises the dispatcher salary by $2,000 in fiscal year 1998-99 and by $4,000 in fiscal year 1999-2000 over the current salary.

32. COMMUNITY SERVICES AND LOCAL FACILITIES

a. Fiscal Year 1997-98 Appropriation Revision: Authorization is given for the receipt and expenditure of $2,800,000 in General Fund appropriations in fiscal year 1997-98 from the Adult Institutions appropriation unit to the Community Services and Local Facilities appropriation unit in order to offset a fiscal year 1997-98 impending budget deficit. Due to the delayed opening of previously authorized capital construction facilities, there exists a surplus of $2,800,000 in operating funds in Adult Institutions that will be used in Community Services and Local Facilities to offset the unbudgeted cost of housing additional inmates in county jails.

b. Probation and Parole Career Ladder Program: Notwithstanding the provisions of KRS 196.076(1), (2), and (3) to the contrary, additional General Fund support totaling $21,000 in fiscal year 1998-99 and $93,000 in fiscal year 1999-2000 shall be used to expand the Probation and Parole Career Ladder in each year of the biennium. Probation and parole officers qualifying for this improvement shall meet the provisions of KRS 196.076(4), (5), (6), and (7). Salary improvements pursuant to this authority shall be in addition to any other salary adjustments afforded all state employees. The Justice Cabinet, Department of Corrections, shall submit a quarterly program and financial status report to the Interim Joint Committee on Appropriations and Revenue which identifies the expenditure of funds and the status of the Probation and Parole Officer Career Ladder Program.

33. ADULT INSTITUTIONS

a. Fiscal Year 1997-98 Appropriation Revision: Authorization is given for the receipt and expenditure of $2,800,000 in General Fund appropriations in fiscal year 1997-98 from the Adult Institutions appropriation unit to the Community Services and Local Facilities appropriation unit in order to offset a fiscal year 1997-98 impending budget deficit. Due to the delayed opening of previously authorized capital construction facilities, there exists a surplus of $2,800,000 in operating funds in Adult Institutions that will be used in Community Services and Local Facilities to offset the unbudgeted cost of housing additional inmates in county jails.

b. Inmate Projection/Bed Status and Financial Reports: The Justice Cabinet, Department of Corrections, shall provide a quarterly update report regarding inmate population projections, relating to state prisoners, to the Interim Joint Committee on Appropriations and Revenue. This report shall provide, at a minimum, any deviations in excess of one percent (1%) from the projections utilized in the preparation of the 1998-2000 Biennial Budget. The Justice Cabinet, Department of Corrections, shall provide a monthly status of all bed space utilized to house state prisoners, including state penitentiaries, adult correctional facilities, local jails, regional jails, halfway houses, community confinement programs, and diversion programs. The Justice Cabinet, Department of Corrections, shall provide a quarterly program and financial status report which identifies the expenditure of these funds to the Interim Joint Committee on Appropriations and Revenue. The report shall provide, at a minimum, the purpose for which the expenditure was made; the projected goal to be accomplished and outcomes, and their status; and the number of participants.

c. Private Prison Bed Expansion: The Department of Corrections shall give preference to Eastern Kentucky inmates when filling the additional beds, to allow for easier visitation by family members.

d. Notwithstanding the provisions of KRS 197.505, the Department of Corrections shall not enter into a contract for the operation or management of any facility that houses prisoners classified above the minimum or community-custody level.

LABOR

34. GENERAL ADMINISTRATION AND SUPPORT

a. Monthly Reporting: The Labor Cabinet shall report monthly to the Interim Joint Committee on Appropriations and Revenue its monthly expenditures of Restricted Funds and the nature of the expenditures. Separate reporting shall be done by each department within the Labor Cabinet.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

35. GENERAL ADMINISTRATION AND SUPPORT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the General Administration and Support budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to other budget units within the Cabinet. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. EMPOWER Kentucky Simplified Regulatory Initiative: Funds from the Technology Trust Fund shall be allotted to the Cabinet for the approved EMPOWER Kentucky Simplified Regulatory Initiatives in the following priority order and amounts. In fiscal biennium 1998-2000, a total of $13,302,000 shall be allotted as follows: (a) Surface Mining - $2,781,200, (b)

Waste Water - $3,012,600, (c) Solid Waste - $1,384,400, (d) Air Quality - $2,721,900, (e) Floodplain - $1,111,000, (f) Drinking Water - $2,124,800, (g) Hazardous Waste - $1,111,000, and (h) Water Withdrawal - $1,055,100.

36. DEPARTMENT FOR NATURAL RESOURCES

a. Jenny Wiley Trail: The Task Force comprised of representatives from the Tourism Development Cabinet, the Division of Forestry, and the Transportation Cabinet shall continue to maintain and manage the Jenny Wiley Trail.

37. DEPARTMENT FOR ENVIRONMENTAL PROTECTION

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Environmental Protection budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to other budget units within the Cabinet. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

b. Clean Air Task Force and Quarterly Reports: The Clean Air Task Force membership and reporting requirements established by the 1992 General Assembly shall be continued. The Task Force shall include representatives of the industry, the environmental community, and the Cabinet, and shall report quarterly to the Legislative Research Commission for referral to appropriate committees. The Cabinet shall also report quarterly to the Legislative Research Commission for referral to appropriate committees on the development and implementation status of programs required by the 1990 Amendments to the Federal Clean Air Act.

38. DEPARTMENT FOR SURFACE MINING RECLAMATION AND ENFORCEMENT

a. Budget Administration: If the Secretary determines that the functions and responsibilities of the Surface Mining Reclamation and Enforcement budget unit can be performed with fewer positions than budgeted for the biennium, the positions and associated costs may be transferred to other budget units within the Cabinet. The Secretary shall present the proposed plan to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue prior to transferring any positions and funding.

39. KENTUCKY RIVER AUTHORITY

a. Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Natural Resources and Environmental Protection Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

40. ENVIRONMENTAL QUALITY COMMISSION

a. Administrative Accountability: The Environmental Quality Commission shall be attached to the Secretary's Office, but shall remain a separate budget unit. The Secretary shall employ a director and other necessary Commission staff who shall serve at the pleasure of the Secretary.

PUBLIC PROTECTION AND REGULATION

41. PUBLIC SERVICE COMMISSION

a. Public Service Commission Building: Proceeds from the sale of the Meter Lab Building at the University of Kentucky shall be utilized exclusively for reducing the amount of bonds authorized for the construction of the new Public Service Commission building.

42. HOUSING, BUILDINGS AND CONSTRUCTION

a. Fire Dispatcher Training: The Commission on Fire Protection Personnel Standards and Education shall pay all expenses for fire dispatchers to attend dispatcher training at the Department of Criminal Justice Training at Eastern Kentucky University.

POSTSECONDARY EDUCATION

43. COUNCIL ON POSTSECONDARY EDUCATION

a. Regional Postsecondary Education Centers: The Council on Postsecondary Education shall resolve any disputes between or among institutions in the design, planning, or use of each Regional Postsecondary Education Center in accordance with this Act.

b. Programs of Distinction or Research Initiatives: Notwithstanding the provisions of KRS 45.760(7), any item of equipment costing $100,000 or more in cash or other consideration, and associated with a Council on Postsecondary Education approved program of distinction or research initiative that receives General Fund moneys from the Research or Regional Excellence Incentive Trust Funds for fiscal year 1997-98 or in the 1998-2000 fiscal biennium, is not required to be included in this Act. A complete listing, description, and cost of any equipment item costing $100,000 or more shall be included in the approved program description and shall be reported for information purposes to the Capital Projects and Bond Oversight Committee.

c. Facilities Maintenance Plan: Operations and maintenance funds shall not be allotted to an institution of postsecondary education until the institution submits for the Council on Postsecondary Education's approval a facilities maintenance plan establishing and committing to a maintenance standard for facilities at the institution.

d. Maintenance Standard: Capital construction project funds shall not be allotted until an institution submits for the Council on Postsecondary Education's approval a facilities maintenance plan establishing and committing to a maintenance standard for facilities at the institution and a technology replacement plan establishing and committing to a technology replacement standard for the institution.

e. Research Challenge Trust Fund Account: The proceeds of the endowment program authorized in Part X, Section IV, Item 1(a) of this Act shall be deposited in the Research Challenge Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the President of the University of Kentucky or from the President of the University of Louisville stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Research Challenge Trust Fund Account transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities.

f. Regional University Excellence Trust Fund: The proceeds of the endowment program authorized in Part X, Section IV, Item 1(b) of this Act shall be deposited in the Regional University Trust Fund Account and invested at the direction of the Council on Postsecondary Education until such time as the Council receives a certification from the Presidents of Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, and Western Kentucky University stating that formal commitments have been secured by the respective universities to provide the matching requirements as determined by the Council. Upon receipt of the certification, the Council shall transfer the endowment funds from the account to the respective universities for management and investment by the university foundations if the foundations have been previously created to manage and invest private gifts and donations on behalf of the universities over time, otherwise by the university itself. The proceeds of the Regional Excellence Trust Fund transferred to the universities shall not be managed or invested by an independent board or foundation separate from the foundations previously created to manage and invest funds on behalf of the respective universities.

44. EASTERN KENTUCKY UNIVERSITY

a Southeast Regional Postsecondary Education Center: Eastern Kentucky University shall coordinate the site selection, planning, design, construction, and operations of the Southeast Regional Postsecondary Education Center. Eastern Kentucky University shall administer the continuous operations of the Center according to the provisions of this Act.

45. MURRAY STATE UNIVERSITY

a. West Regional Postsecondary Education Center: Murray State University shall coordinate the site selection, planning, design, construction, and operations of the West Regional Postsecondary Education Center. Murray State University shall administer the continuous operations of the Center according to the provisions of this Act.

46. WESTERN KENTUCKY UNIVERSITY

a. Central Regional Postsecondary Education Center-Phase I: Western Kentucky University shall coordinate the site selection, planning, design, construction, and operations of the Central Regional Postsecondary Education Center. Western Kentucky University shall administer the continuous operations of the Center according to the provisions of this Act.

b. South Regional Postsecondary Education Center-Phase I: Western Kentucky University shall coordinate the site selection, planning, design, construction, and operations of the South Regional Postsecondary Education Center. Western Kentucky University shall administer the continuous operations of the Center according to the provisions of this Act.

47. KENTUCKY COMMUNITY TECHNICAL COLLEGE SYSTEM

a. Community College System Faculty Salaries: The number one budget request priority of the Community College System is to correct the historically low salaries of the faculty. The average 1996-97 salary of a community college faculty member is approximately $7,180 less than the midpoint between the average 1996-97 salary of a Kentucky high school teacher and the average salary of a faculty member in Kentucky's other state-supported higher education institutions. The Kentucky Community Technical College System shall place the highest priority on improving the salaries of the Community College System faculty.

b. Space Allocation: The Prestonsburg Community College Classroom Health Education Building, authorized by the 1996 Kentucky Acts, Chapter 380 (House Bill 379), Part X and the Northeast Regional Postsecondary Education Center, Part II, Capital Projects Budget, Section L, Item 9.1. of this Act shall be combined into one structure. Prestonsburg Community College shall make at least 9,940 net square feet of space available to Morehead State University, for instructional purposes, from that portion of the building consisting of the Classroom Health Education Building. That portion of the building consisting of the Regional Postsecondary Education Center shall be utilized equally between Morehead State University and Prestonsburg Community College.

c. Belinda Mason Academic Technical Center: The Science Technology/Center on the Whitesburg Campus of Southeast Community College authorized in Part II, Capital Projects Budget, shall be named the Belinda Mason Academic

Technical Center.

TOURISM DEVELOPMENT

48. Office of the Secretary

a. Golf Course Initiatives: The Commonwealth of Kentucky is committed to becoming an integral part of the "First Tee" initiatives of the PGA Tour, PGA, LPGA, Tiger Woods Foundation, National Minority Golf Foundation, USGA, Augusta National and Golf Course Superintendents of America, with involvement of PGA Tour Players for the purposes of promoting golf and making golf more accessible and affordable throughout the Commonwealth of Kentucky.

b. Golf Course Design: It is important in the design and development process of finding the uniqueness of each geographic area of the Commonwealth to select designers and developers who bring knowledge of what is expected both nationally and locally who possess the ability to coordinate and communicate with national and state golf organizations and seek their advice and counsel as to the development of new golf facilities within the Commonwealth.

49. Department of Travel

a. Marketing Strategy Report: The Cabinet shall provide a quarterly report to the Legislative Research Commission for referral to the appropriate committees summarizing the Kentucky Department of Travel's marketing strategy and the economic impact of Caesars Indiana on the Kentucky Tourism Industry.

50. Department of Parks

a. Jenny Wiley Trail: The Jenny Wiley Trail Task Force, comprised of representatives from the Tourism Development Cabinet, the Division of Forestry, and the Transportation Cabinet, shall continue to maintain and manage the Jenny Wiley Trail. The Task Force shall provide a progress report to the Legislative Research Commission for referral to the appropriate committees by December first of each year.

b. Golf Course Professionals: All golf professionals certified by the Professional Golfers' Association, who are approved by the Commissioner of Parks, are authorized to teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time, as determined by guidelines established by the Commissioner of Parks.

c. Park Renovation Projects: The Cabinet shall continue to provide a quarterly status report to the Legislative Research Commission for referral to the appropriate committees summarizing the progress of the Park Renovation Projects.

d. Capital Maintenance and Renovation Fund: The Cabinet shall provide to the Interim Joint Committee on Appropriations and Revenue by January first of each fiscal year a priority listing of maintenance and renovation needs of park facilities.

51. Department of Fish and Wildlife

a. Analysis of Compensation levels: The Department of Fish and Wildlife shall contract with the Personnel Cabinet to conduct an analysis of compensation levels of employees assigned to Fish and Wildlife classifications. These findings shall be reported to the Legislative Research Commission for referral to the appropriate committees on or before July 1, 1999. In conducting the analysis the Personnel Cabinet shall consider evaluating and comparing the Department of Fish and Wildlife Resources to other similar state and local employee classifications both in the Commonwealth and in other states.

b. Financial Report: The Department of Fish and Wildlife shall provide a written program and financial report identifying the expenditure of funds by the Department to the Legislative Research Commission for referral to the appropriate committees no later than 60 days following the end of each fiscal year. The report shall provide, at a minimum, a summary of all obligated funds included in the projected ending balance.

TRANSPORTATION

52. Transportation

a. Transportation Cabinet Office Building Provisions: The Transportation Cabinet shall relinquish the rights to the existing State Office Building in return for the General Fund-supported previously authorized but unissued $18,900,000 bonds that are reauthorized in Part II, Section P, Item 87 of this Act. The General Assembly declares that the new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and that any surplus bond proceeds or debt service appropriations shall be deposited in the State Construction Account. Any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund. The Finance and Administration Cabinet shall present to the Interim Joint Committee on Appropriations and Revenue a cost comparison of the site options for review prior to selecting the preferred site.

b. Revenue Sharing Budget Transfer: Notwithstanding 1996 Kentucky Acts, Chapter 380 Road Fund appropriation in the amount of $12,000,000 in fiscal year 1997-98 for the Rural Secondary Road Aid Program (construction balance) is reduced and the County Road Aid Program appropriation is increased by a like amount. These moneys shall be allocated to the counties utilizing the formula prescribed in KRS 177.360. The first priority for use of the funds shall be to support any road projects not funded in a county's priority list for 1997. Each county's fiscal court shall determine the projects to be funded from the balance of the respective allocations. No moneys from the revised appropriation shall be used to pay administrative expenditures.

c. New Economic Development Road Bond Usage: The General Assembly directs that the Transportation Cabinet fully utilize the bond proceeds from the New Economic Development Road Bonds to advance federal projects due to the lack of federal highway moneys resulting from a failure by the United States Congress to enact new highway authorization legislation.

d. State Match Provisions: The Transportation Cabinet is authorized to utilize state construction moneys to match federal highway moneys in the event that unanticipated additional federal funds are provided to Kentucky and the state match appropriations have been exhausted.

e. Excess Debt Service/Lease-Rental Appropriations: Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited in the State Construction Account.

f. Permanent Positions Cap: The Transportation Cabinet's personnel cap shall be 6,423 permanent positions.

g. Financial Reports: The Transportation Cabinet shall provide the Interim Joint Committee on Appropriations and Revenue a detailed account of the Road Fund tax components that contributed to the Road Fund Surplus Account. Additionally, the Transportation Cabinet shall also furnish to the Interim Joint Committee on Appropriations and Revenue a detailed report of all Restricted Funds accounts. The report shall include the amount of interest that has accrued to the various accounts each fiscal year along with the disposition of the interest earnings.

h. Public Transportation: Federal Surface Transportation Program moneys that are appropriated in the amount of $1,000,000 in fiscal year 1998-99 to Public Transportation shall be utilized to support the operations of public transit authorities. The urban transit authorities of Louisville, Lexington, and Northern Kentucky shall utilize sixty percent ($600,000) of these moneys and the rural transit authorities shall utilize forty percent ($400,000).

i. A-A Highway Traffic Accident Study: The Department of Highways shall conduct an intensive traffic accident study on the A-A Highway in fiscal year 1999-2000. It shall include an analysis of visibility, signage, lighting, turn lanes and road striping at each public and private access. The accidents shall be identified by location and by fatalities, major injury, noninjury, and minor injury. Causes for the accidents shall be summarized and recommendation made to reduce the high level of accidents on the A-A Highway. A public hearing shall be held on the results of the study at a convenient location along the A-A Highway Corridor.

j. Access Permits: Charges for any access permits granted by the Department of Highways shall be based on the price of the property being purchased back for the access. This property value shall be the price paid originally for the right-of-way and the normal inflationary uplifts. No administrative cost shall be charged. The permits access fees refunds outlined in the FB 1996-98 Final Budget Memorandum shall be granted only for the state portion of the fees in calendar year 1998. Any refunds that this provision requires the Transportation Cabinet to pay is appropriated in the highways appropriation unit.

l. Highway Plans: The Transportation Cabinet shall be governed by the following provisions as they relate to highway construction activity:

A "project" is defined as the design, right-of-way, utility, or construction phase of a highway construction project. "Six-year road plan" is defined as the short-term individual transportation projects that are scheduled to be constructed in each county and that are submitted each regular session to the General Assembly by the Department of Highways, including any amendments that the General Assembly makes to the projects prior to the plan being enacted. "Statewide transportation plan" is defined as the long-range plan to be implemented over a twenty (20) year period for state improvements to air, bicycle, pedestrian, highway, public transportation, rail, water, and other intermodal transportation systems. "Biennial highway construction plan" represents the first two fiscal years of the six-year road plan.

The Department of Highways shall submit the recommended 2000-2006 six-year road plan to the 2000 General Assembly at the same time the executive budget is submitted by the Governor to each regular session of the General Assembly pursuant to KRS 48.100. The six-year road plan submitted shall be divided into five (5) sections as follows:

(1) The first section shall set forth the cabinet's revenue estimates and assumptions used in developing the recommended 2000-2006 six-year road plan.

(2) The second section shall list the projects identified in the six-year road plan as defined above.

(3) The third section shall specify the individual projects that will be funded from the "ZVARIOUS 99" categories listed in the recommended 2000-2006 six-year road plan.

(4) The fourth section shall provide a comparison of the recommended 2000-2006 six-year road plan to the 1998-2004 six-year road plan that was enacted for the 1998-2000 fiscal biennium by the 1998 General Assembly. The comparison shall include a justification statement documenting the reason any project in the 1998-2004 six-year road plan was deleted from the proposed plan.

(5) The fifth section shall list by county all active road construction projects that are not included in the plan submitted to the 2000 General Assembly because funding has been authorized for the project or work has been initiated on the project

The department shall provide the 2000 General Assembly with an electronic version of the six-year road plan at the same time the department submits the 2000-2006 six-year road plan to the 2000 General Assembly. The electronic version shall be in a form prescribed by the General Assembly or the Legislative Research.

The department shall submit the statewide transportation plan as defined above to the General Assembly at the same time the department submits the 2000-2006 six-year road plan to the 2000 General Assembly.

The 2000-2002 Biennial Highway Construction shall not exceed the 2000-2002 fiscal biennium executive branch recommended budget for highway construction by more than ten percent (10%) in the first year of the biennium and shall not exceed the budget in the second year of the biennium. It is the intent of the General Assembly to allow the Transportation Cabinet to maximize the use of all funds available to the Cabinet and to plan for the approximately ten percent (10%) of projects that are traditionally delayed each year due to unforeseen circumstances. The projects that are funded in the last four years of the 2000-2006 six-year road plan shall not exceed revenue estimates provided by the Transportation Cabinet.

If the Cabinet has to delay a project in the first year of the 2000-2002 Biennial Highway Construction Plan, the project shall slip to the second year of the road plan and all money authorized for the project shall shift to the second year with the project. If a project has to be delayed in the second year, all money authorized for the project shall remain with it and shift to the third year of the road plan. All projects delayed in subsequent years shall automatically shift to the succeeding year of the 2000-2006 six-year road plan along with any money authorized for the project. If the Cabinet has a surplus of federal funds at the end of a fiscal year, then projects designated for funding with federal money from the next succeeding year of the 2000-2006 six-year road plan may be advanced for work to begin.

In developing the design, right-of-way, utility, and construction phase of each project, the following factors shall be considered but are not exclusive:

(a) Alignment of existing roads;

(b) The width or elevation of existing roadways and shoulder surfaces;

(c) The width of rights-of-way;

(d) The cost of each phase of the project plus a separate identification of the cabinet's administrative costs for each phase;

(e) The type and volume of traffic;

(f) The condition of structures and drainage;

(g) The accident rate;

(h) The geographic distribution of roadways to be constructed or reconstructed; and

(i) The social, economic, and environmental impact of the proposed project.

The Transportation Cabinet shall monthly transmit electronic data to the General Assembly through the Legislative Research Commission on all activity relating to all projects in the execution of the enacted 1998-2004 six-year road plan. The data for each project shall contain all cabinet activity on projects funded through the Road Fund, Federal Funds, Restricted Funds, and Bond Funds, including resurfacing and rural and secondary projects, and shall also include but not be limited to the following:

(a) District number and project item number which shall remain in effect throughout the entire life of the project, subject to the following conditions:

1. If a project is split into more than one project during its life, the project shall maintain the same item number with a suffix;

2. If two or more projects are merged then the projects shall be identified by the new merged project maintaining the project item number of one (1) of the projects being merged. The total cost of the merged project shall be set forth; and

3. If a project that has been merged with another project and all funds authorized for the initial project that is subsequently shifted to the new merged project shall remain in the 1998-2004 six-year road plan and shall be identified with a cross-reference to the superseded project and superseded project item number; and

(b) County name and county number.

WORKFORCE DEVELOPMENT CABINET

53. DEPARTMENT FOR TECHNICAL EDUCATION

a. Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650 to 157.665, the School Facilities Construction Commission in consultation with the Kentucky Board of Education and the Kentucky Department of Education shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 1998-2000 fiscal biennium.

PART X

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Plan not to exceed a total of $510,000,000 for fiscal years 1998-99 and 1999-2000 notwithstanding the provisions of KRS 48.140(1) and (2). Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance (General Fund Surplus Account) are appropriated to the following: the Budget Reserve Trust Fund established in KRS 48.705; a State Technology Projects Fund, as established in this Part of this Act; a School Technology Projects Fund as established in this Part of this Act; and a Statewide Infrastructure and Endowment Fund as established in this Part of this Act. Collectively, these four funds comprise the General Fund Surplus Expenditure Plan for fiscal years 1998-99 and 1999-2000.

2. The General Fund amount appropriated to the Surplus Expenditure Plan from the undesignated fund balance in the General Fund at the close of fiscal year 1997-98 and fiscal year 1998-99 respectively shall not exceed a total of $510,000,000 for fiscal years 1998-99 and 1999-2000 combined. In the event that the undesignated fund balance in the General Fund at the close of fiscal year 1997-98 and at the close of fiscal year 1998-99 totals less than $510,000,000, the amount available for appropriation for fiscal year 1998-99 and for fiscal year 1999-2000 pursuant to this section shall be the total undesignated fund balance amount at June 30, 1998, and at June 30, 1999, for the respective years. These amounts are hereby appropriated in fiscal year 1998-99 and in fiscal year 1999-2000, and shall be allocated in the following manner: 20.00 percent to the Budget Reserve Trust Fund, not to exceed $100,000,000; 17.36 percent to the State Technology Projects Fund, not to exceed $86,800,000; 17.46 percent to the School Technology Projects Fund, not to exceed $87,300,000; and 45.18 percent to the Statewide Infrastructure and Endowment Fund, not to exceed $236,000,000.

3. The Secretary of the Finance and Administration Cabinet shall determine, within thirty (30) days after the close of fiscal year 1997-98, and the close of fiscal year 1998-99, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 1998-99 and fiscal year 1999-2000.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 1998, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 1998-99 pursuant to the Plan.

Each Fund identified as part of the General Fund Surplus Expenditure Plan in this Part of this Act shall be appropriated its discrete percentage share of the total undesignated fund balance enumerated above. Project amounts are hereby appropriated in priority rank order for the individual funds set out above in this Part of this Act. Notwithstanding KRS 45.229, any funds appropriated pursuant to this Part of this Act in fiscal year 1998-99 shall not lapse, but shall carry forward and remain appropriated in fiscal year 1999-2000 in order to effectuate the terms of this Act.

4. To the extent that projects are enumerated in the priority ranking and sufficient General Fund moneys are not certified to be available for expenditure and appropriation in fiscal year 1998-99, the remaining projects in the same priority order set forth in this Part are appropriated from the actual General Fund undesignated fund balance for the General Fund Surplus Account effective July 1, 1999, for fiscal year 1999-2000.

5. Individual project priority rankings have been established within each of the four funds enumerated. Appropriations are hereby approved in the priority rank order for the projects listed within each fund enumerated below:

Priority			General Fund Surplus Appropriations
I.	Budget Reserve Trust Fund		100,000,000
II.	State Technology Projects Fund		
Budget Unit			
1.	Workforce Development Cabinet - Department for Technical Education - Area Vocational Education Centers/Equipment	6,000,000	
2.	Justice Cabinet - Department of State Police - Automated Fingerprint System		5,800,000
3.	Justice Cabinet-Justice Administration - Unified Criminal Justice Information System		5,000,000
4.	Finance and Administration Cabinet - Technology Trust Fund	70,000,000	
	Subtotal		86,800,000
III.	School Technology Projects Fund		
1.	Kentucky Department of Education-Management Support Services - Kentucky Educational Technology System		87,300,000
IV.	Statewide Infrastructure and Endowment Fund		

Priority			General Fund Surplus Appropriations
Endowment Fund			
A.	COUNCIL ON POSTSECONDARY EDUCATION		
Budget Unit	Research Challenge Trust Fund		
1.	Endowed Chairs		100,000,000
Budget Unit	Regional Universities Excellence Trust Fund		
2.	Endowed Chairs		10,000,000
Statewide Infrastructure Fund			
		Bond Funds	
A.	FINANCE AND ADMINISTRATION CABINET		
Budget Unit	General Administration		
1.	Veterans' Nursing Home - East Kentucky	4,725,000	
2.	Veterans' Nursing Home - West Kentucky	4,725,000	
B.	CABINET FOR ECONOMIC DEVELOPMENT		
Budget Unit	Office of the Secretary		
3.	Northern Kentucky Airport	17,000,000	
C.	TOURISM DEVELOPMENT CABINET		
Budget Unit	Kentucky State Fair Board		
4.	Louisville/Jefferson County International Airport	20,000,000	
D.	POSTSECONDARY EDUCATION		
Budget Unit	University of Kentucky		
5.	University System - Coldstream Research Campus Infrastructure	5,500,000	
E.	CABINET FOR ECONOMIC DEVELOPMENT		
Budget Unit	Office of the Secretary		
6.	Columbia Sewer Lines	2,000,000	
7.	Adair County Industrial Park Development Fund	500,000	
8.	Green County Industrial Park Development Fund	460,000	
9.	Russell County Industrial Park Development Fund	100,000	
10.	Russell County Gas Line	2,000,000	
F.	TOURISM DEVELOPMENT CABINET		
Budget Unit	Department of Parks		
11.	Greenbo State Park Wastewater Plant	1,000,000	
12.	Rough River Marina Improvements	800,000	
13.	Barren River - Dock Replacement	450,000	
14.	Audubon Golf Course Erosion	300,000	
15.	Boonesborough Electric Upgrade	885,000	
16.	Jefferson Davis - Repair	450,000	
17.	Cumberland Falls - Water Lines	550,000	
18.	Whitehall HVAC	175,000	
19.	Blue Licks Lodge	2,500,000	
20.	Dale Hollow Lodge	1,500,000	
21.	Pineville Golf Course	3,000,000	
G.	CABINET FOR ECONOMIC DEVELOPMENT		
Budget Unit	Financial Incentives		
22.	Louisville Riverfront	4,000,000	

H.	EDUCATION, ARTS AND HUMANITIES CABINET			
Budget Unit	Office of the Secretary			
23.	Four Rivers Center - Paducah		12,000,000	
I.	CABINET FOR ECONOMIC DEVELOPMENT			
Budget Unit	Office of the Secretary			
24.	Bowling Green - Warren County	Airport	6,000,000	
J.	TOURISM DEVELOPMENT CABINET			
Budget Unit	Office of the Secretary			
25.	Artisans Center - Berea		6,000,000	
K.	FINANCE AND ADMINISTRATION CABINET			
Budget Unit	General Administration			
26.	Hindman Educational Complex		3,000,000	
L.	GOVERNMENT OPERATIONS			
Budget Unit	Department for Local Government			
27.	Washington County Water Lines		2,000,000	
M.	TOURISM DEVELOPMENT CABINET			
Budget Unit	Department of Parks			
28.	Golf Course/Road - Yatesville Lake		6,000,000	
N.	EDUCATION, ARTS AND HUMANITIES CABINET			
Budget Unit	Office of the Secretary			
29.	East Kentucky Center for Science, Math, and Technology		2,640,000	
O.	GOVERNMENT OPERATIONS			
Budget Unit	Department for Local Government			
30.	Versailles/Woodford County	Community Center	3,000,000	
P.	TOURISM DEVELOPMENT CABINET			
Budget Unit	Office of the Secretary			
31.	Country Music Hall of Fame		2,168,000	
32.	Coca Cola Museum		2,000,000	
Q.	CABINET FOR ECONOMIC DEVELOPMENT			
Budget Unit	Office of the Secretary			
33.	Radcliff/Vine Grove Industrial Park		960,000	
34.	Bluegrass Museum		3,000,000	
R.	POSTSECONDARY EDUCATION			
Budget Unit	Murray State University			
35.	Renovate Animal, Health	Technology Center	700,000	
Budget Unit	Kentucky Community and Technical College System			
36.	Maysville Comunity College Extension at Cynthiana	Campus	2,500,000	
S.	GOVERNMENT OPERATIONS			
Budget Unit	Department for Local Government			
37.	Edmonson County School		950,000	
38.	Cumberland Golf Course - Purchase		1,000,000	
T.	CABINET FOR FAMILIES AND CHILDREN			
Budget Unit	Administration Services			
39.	Lincoln County Senior Citizens Center		360,000	
BOND TOTAL/DEBT SERVICE			126,898,000	11,000,000

U.	FINANCE AND ADMINISTRATION CABINET	
Budget Unit	General Administration	
40.	Pike County Civic Center	6,000,000
V.	TOURISM DEVELOPMENT CABINET	
Budget Unit	Department of Parks	
41.	Paintsville Lake Campground	2,850,000
W.	GOVERNMENT OPERATIONS	
Budget Unit	Department for Local Government	
42.	Grayson County Courthouse	150,000
43.	Mount Sterling/Montgomery County Community Center	1,000,000
44.	Greenup County Water Project	525,000
X.	TOURISM DEVELOPMENT CABINET	
Budget Unit	Department of Parks	
45.	Lost River	125,000
46.	Kentucky Railway Museum, Inc.	500,000
Y.	EDUCATION, ARTS AND HUMANITIES	
Budget Unit	Kentucky Center for the Arts	
47.	Kentucky Center for the Arts	4,500,000
Z.	POSTSECONDARY EDUCATION	
Budget Unit	University of Kentucky	
48.	University System - Coldstream Research Building	1,200,000
AA.	GOVERNMENT OPERATIONS	
Budget Unit	Department for Local Government	
49.	Tollesboro Industrial Site	250,000
50.	Larue and Nelson County Water Lines	1,000,000
51.	Clay County Sewer Lines	1,900,000
52.	Marion County Community Center	300,000
53.	Mayfield/Graves County Senior Citizens Center	700,000
AB.	EDUCATION, ARTS, AND HUMANITIES	
Budget Unit	Office of the Secretary	
54.	Underground Railroad Artifacts	50,000
AC.	FINANCE AND ADMINISTRATION	
Budget Unit	Office of the Secretary	
55.	Consolidated Community Projects Pool	3,200,000
AD.	GOVERNMENT OPERATIONS	
Budget Unit	Department for Local Government	
56.	Exceptional Center - Marshall County	100,000
57.	Grayson County Airport	200,000
58.	Park City Park Improvement	50,000
59.	Cave City Downtown Improvement	100,000
60.	Carter County Water Lines	600,000
61.	Berea Sewer Request	300,000
62.	East Pulaski County Community Park	40,000
AE.	TOURISM DEVELOPMENT CABINET	
Budget Unit	Department of Parks	
63.	Golf Course - Mineral Mound	5,000,000
AF.	GOVERNMENT OPERATIONS	

Budget Unit	Department for Local Government		
64.	Williamsburg/Whitley County Airport		2,000,000
65.	Cutshin Water Project		250,000
66.	Mason County Water Lines		150,000
67.	Bath County Courthouse Renovation		700,000
68.	Custer Water Line		550,000
AG.	TOURISM DEVELOPMENT CABINET		
Budget Unit	Department of Parks		
69.	Camp Nelson - Civil War Battlefield Trust	1,000,000	
AH.	GOVERNMENT OPERATIONS		
Budget Unit	Department for Local Government		
70.	Owsley/Lee/Wolfe Regional Jail		500,000
71.	Oldham County Sewer		3,000,000
AI.	TOURISM DEVELOPMENT CABINET		
Budget Unit	Department of Parks		
72.	Lake Malone Road		173,000
AJ.	GOVERNMENT OPERATIONS		
Budget Unit	Department for Local Government		
73.	Mount Olivet Sewer Project		400,000
AK.	TOURISM DEVELOPMENT CABINET		
Budget Unit	Department of Parks		
74.	Pennyrile Golf Course Renovation		3,000,000
AL.	ECONOMIC DEVELOPMENT CABINET		
Budget Unit	Office of the Secretary		
75.	Business Development Job Training Center		2,000,000
AM.	GOVERNMENT OPERATIONS		
Budget Unit	Department for Local Government		
76.	Salyersville Wastewater Expansion		500,000
77.	Red Fox Golf Course		3,000,000
78.	Louisville Zoo		2,000,000
79.	Flatwoods Infrastructure		75,000
80.	Paramount Theater - Ashland		2,150,000
81.	Hart County Jail		600,000
82.	Powell County Volunteer Fire Districts		300,000
83.	Marshall County/Draffenville Sewer Project		500,000
AN.	TOURISM DEVELOPMENT CABINET		
Budget Unit	Department of Parks		
84.	Perryville Battlefield Development Project	800,000	
85.	Grayson Lake Golf Course		500,000
86.	Major Facility Infrastructure Pool		4,000,000
AO.	GOVERNMENT OPERATIONS		
Budget Unit	Department for Local Government		
87.	Metcalfe County Park		150,000
88.	Menifee County Wellness Center		50,000
AP.	CABINET FOR ECONOMIC DEVELOPMENT		
Budget Unit	Office of the Secretary		
89.	RiverPark Center - Owensboro		3,000,000

AQ.	GOVERNMENT OPERATIONS			
Budget Unit	Department for Local Government			
90.	Meade County River Heritage Project			600,000
91.	Black Oak/Vanceburg Water Lines			200,000
AR.	CABINET FOR ECONOMIC DEVELOPMENT			
Budget Unit	Office of the Secretary			
92.	Business Development Incubator			1,050,000
AS.	POSTSECONDARY EDUCATION			
Budget Unit	Morehead State University			
93.	Morehead State University	Wellness Center		900,000
AT.	GOVERNMENT OPERATIONS			
Budget Unit	Department for Local Government			
94.	East Clark County Water Lines			400,000
AU.	CABINET FOR FAMILIES AND CHILDREN			
Budget Unit	Administration Services			
95.	Dare to Care Warehouse			250,000
AV.	TOURISM DEVELOPMENT CABINET			
Budget Unit	Department of Parks			
96.	Cumberland Golf Course - Improvements		2,000,000	
AW.	GOVERNMENT OPERATIONS			
Budget Unit	Department for Local Government			
97.	Mason County Jail Remodeling			250,000
AX.	TOURISM DEVELOPMENT CABINET			
Budget Unit	Department of Parks			
98.	Old Kentucky Home Golf Course			2,400,000
AY.	CABINET FOR HEALTH SERVICES			
Budget Unit	Administrative Support			
99.	Group Homes (3)			1,000,000
AZ.	GOVERNMENT OPERATIONS			
Budget Unit	Department for Local Government			
100.	Kentucky Rural Water Act Fund			500,000
101.	Wilderness Trace Child	Development Center		450,000
102.	Clay County Education Center			235,000
103.	Nicholas County Public Health			400,000
104.	Greenup County Athletic Complex			250,000
105.	Louisville Science Center			500,000
106.	Franklin Downtown Development			200,000
107.	Hickman - Fulton County Riverport			700,000
108.	Western Kentucky	Information/Tourism Center		200,000
109.	Robertson County Water Project			200,000
BA.	TOURISM DEVELOPMENT CABINET			
Budget Unit	Department of Parks			
110.	Major Maintenance Pool			4,000,000
BB.	CABINET FOR ECONOMIC DEVELOPMENT			
Budget Unit	Office of the Secretary			
111.	Fleming County Industrial Land Purchase		300,000	
BC.	GOVERNMENT OPERATIONS			

Budget Unit	Department for Local Government		
112.	Park Improvements/Development - Lexington/Fayette County	4,000,000	
BD. CABINET FOR HEALTH SERVICES			
Budget Unit	Administrative Support		
113.	Beacon House		250,000
BE. TOURISM DEVELOPMENT CABINET			
Budget Unit	Department of Parks		
114.	Kincaid Lake Golf Course		3,000,000
BF. GOVERNMENT OPERATIONS			
Budget Unit	Department for Local Government		
115.	Nicholasville Swimming Pool		600,000
116.	Black Oak Speculative Building		100,000
117.	Manchester Emergency Services		125,000
118.	West Liberty Water Plant		1,000,000
119	Farm Youth Center Grant		50,000
120.	Knob Lick Water Lines		300,000
121.	Marshall County Rescue Squad		20,000
122.	Johnson County Rescue Squad Building		125,000
123.	Hacker Volunteer Fire Department		20,000
124.	Horse Creek Volunteer Fire Department		20,000
125.	Highview Hill Park		100,000
126.	Hardin County Public Library		40,000
127.	Vanceburg Depot Renovation		50,000
128.	Mason County Clerk's Office Remodeling	150,000	
129.	Logan/Todd Regional Water Project		2,000,000
BG. TOURISM DEVELOPMENT CABINET			
Budget Unit	Department of Parks		
130.	Dale Hollow Golf Course		500,000
BH. GOVERNMENT OPERATIONS			
Budget Unit	Department for Local Government		
131.	Anderson County Park (City Park)		150,000
132.	Scottsville Water Flow		250,000
133.	Menifee Community Education Center		50,000
134.	Henderson Riverfront Improvement		1,500,000
BI. EDUCATION			
Budget Unit	Department of Education		
135.	Jackson County Area Vocational School		2,000,000
BJ. GOVERNMENT OPERATIONS			
Budget Unit	Department of Agriculture		
136.	Purchase of Development Rights		750,000
Budget Unit	Department for Local Government		
137.	Irvington Community Development		50,000
138.	Greenup County 911 System		35,000
139.	Carlisle County Sewage Treatment Plant		900,000
BK. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION			
Budget Unit	Kentucky River Authority		
140.	Kentucky River Parks		1,000,000

BL. EDUCATION, ARTS, AND HUMANITIES			
Budget Unit	Kentucky Educational Television Authority		
141.	Transmitters Replacement		6,000,000
BM. COURT OF JUSTICE			
Budget Unit	Administrative Office of the Courts		
142.	Court Designated Worker Management Information System		500,000
Subtotal			236,000,000
GRAND TOTAL		510,000,000	

Projects enumerated above in the Statewide Infrastructure and Endowment Fund with priority ranking one (1) to thirty-nine (39) and related project amounts are authorized for bond issuance up to the amount of $130,000,000 Bond Funds in fiscal year 1998-99. General Fund debt service in the amount of $11,000,000 is appropriated in fiscal year 1998-99 in the Finance and Administration Cabinet, General Administration and Support budget unit, and shall remain available in fiscal year 1999-2000 for payment. The Secretary of Finance and Administration Cabinet is directed to effect necessary actions to accomplish the purposes of this section.

Included in the Consolidated Community Projects Pool (Priority # 55) are the following individual projects and related amounts: Northern Kentucky University Land Acquisition - $300,000; Union County Fairgrounds/Arena - $900,000; Whitesburg Fitness Center - $500,000; Wilder Civic Center - $500,000; and the Woodford County Community Center, Scope Expansion - $1,000,000.

The appropriations provided above for projects at the University of Kentucky - University System - Coldstream Research Campus Infrastructure (Priority # 5) and the Coldstream Research Building (Priority # 48) are authorized to be used for the following purposes: infrastructure, research building development, or other necessary costs related to the development of the Coldstream Research Park. If economic opportunities or project planning necessitate a modification in the use of either or both of these appropriations for the Coldstream Research Park, that modification is authorized upon recommendation of the President of the University of Kentucky and the Secretary of the Economic Development Cabinet to the Secretary of the Finance and Administration Cabinet. The Secretary of the Finance and Administration Cabinet shall report any modification of the authorized projects to the Legislative Research Commission's Capital Projects and Bond Oversight Committee consistent with the provisions of KRS 45.750 to 45.810.

The appropriation provided above for the Hindman Educational Complex (Priority # 26), as well as the appropriations provided in Part I, Section A, Item 12.b. of this Act for the Hindman Educational Complex projects shall be administered by the Knott County Arts and Crafts Foundation, a public body corporate, to be established by the Knott County Fiscal Court according to the provisions of Section 501(c)(3) of the Internal Revenue Code. The Foundation shall be governed by a Board of Directors consisting of the following: three members appointed by the Knott County Judge/Executive; two members appointed by the Mayor of Hindman; two members appointed by the Governor; and two members appointed by the President of the Kentucky Community and Technical College System.

The appropriation for the Red Fox Golf Course (Priority # 77) provided above, as well as the appropriations provided in Part I, Section A, Item 12.b. of this Act related to the Red Fox Golf Course projects shall be administered through a new tri-county cooperative authority comprised of equal membership from Letcher, Knott, and Perry Counties.

The appropriation provided above for the Adair County Industrial Park Development Fund (Priority #7) shall go through the Adair County Industrial Authority.

The appropriation provided above for the Business Development Incubator (Priority #92) supports funding of a community partnership with local small business development organizations to establish a incubator for small start-up businesses in Lexington. Funds will be made available to the nonprofit Community Ventures Corporation's current microenterprise program.

The appropriation provided above for the Louisville/Jefferson County International Airport (Priority #4) is authorized to be used by the Regional Airport Authority to acquire the residential property designated by the Authority under the Voluntary Buyout Program. The Regional Airport Authority agrees to, in turn, deed over $20 million worth of property to the Kentucky State Fair Board, which would include the Ashton-Adair and South Prestonia areas. The deeding of the $20 million of property to the State will be consistent with the framework of the existing September 1994 agreement between the State and the Regional Airport Authority on the first part of the Ashton-Adair property. State funds shall not be utilized until the Finance and Administration Cabinet and the Capital Projects and Bond Oversight Committee are satisfied that the following parameters are met:

(1) The $20 million appropriation shall be made available to the State Fair Board within 60 days after the effective date of this Act. The Regional Airport Authority shall provide to the Auditor of Public Accounts for review copies of its existing audits prepared by independent certified public accountants in order that the Auditor of Public Accounts may determine what additional financial or management audits, if any, are warranted.

(2) All costs for infrastructure within the boundaries of the Innovative Housing Program subdivision development shall

be borne by the Innovative Housing Program.

(3) The Regional Airport Authority shall use land purchased in the Voluntary Buyout Program only for airport-related uses (commercial and industrial), fairgrounds/airport compatible uses (commercial and industrial), and airport-compatible uses (commercial and industrial). Uses that shall be prohibited include: aviaries and zoos; boarding and lodging houses; churches, parish halls, temples, convents, and monasteries; community residences; country clubs; dance halls; dancing instruction; day care centers, day nurseries, nursery schools, and kindergartens; dwellings, two-family or single-family, except for caretakers, custodians and watchmen; family care homes; fraternities, sororities, clubs, and lodges; funeral homes; home occupations; homes for the infirmed and aged; hospitals, health care facilities, and institutions; land fills; mobile home parks; multiple-family dwellings; music and vocal instruction; nursing homes; outdoor amphitheaters and music shells; schools (except airport-related); single-family dwellings; and social rehabilitation residences.

Of the $2.5 million appropriated above for the Blue Licks Lodge (Priority #19) up to 10% may be used for the purchase of additional land for the Blue Licks State Resort Park.

The appropriation provided above for the Major Facility Infrastructure Pool (Priority #86) shall include infrastructure costs for major projects construction on State Park property by the private or public sector.

The appropriaton provided above for the Meade County River Heritage Project (Priority # 90) is authorized to be used for the riverfront development, amphitheater, and museum.

The appropriation provided above for the Kin~~caid~~ Lake Golf Course (Priority #114) shall be used for the purpose of constructing a nine-hole golf course.

The appropriation provided above for the West Liberty Water Plant, (Priority # 118) shall be a joint project between the City of West Liberty and Morgan County. Funds shall not be allotted until a Memorandum of Agreement, which includes a detailed plan of site selection, planning, design, construction, and operation is executed between the City of West Liberty and Morgan County and approved by the Governor's Office for Policy and Management.

The funding for each project appropriated above is provided in furtherance of the declared public policy objectives of the Commonwealth including economic development, community improvement, and infrastructure needs. The funding for each project identified in Part IV of this Act, Statewide Infrastructure and Endowment Fund, is appropriated to the Executive Branch budget unit identified with that project. This identification by established appropriation unit is for the purpose of ensuring that all funds and all projects appropriated as part of the General Fund Surplus Plan in Part X of this Act are subject to established statutory administrative procedures and appropriate General Assembly oversight required by KRS 45.750 to 45.810.

6. Notwithstanding KRS 48.140 and the provisions of Part X 1. to 5. above, if the total undesignated fund balance in the General Fund in fiscal year 1997-98 and 1998-99 respectively exceeds $510,000,000, there is appropriated in fiscal year 1999-2000 to the Budget Reserve Trust Fund an amount, in addition to the $100,000,000 above appropriation, that enables the Budget Reserve Trust Fund to contain a fund balance up to five percent (5%) of the actual General Fund revenue in fiscal year 1998-99.

The Technology Trust Fund identified in Part X 5. II. 4. above is the Technology Trust Fund established by the 1996 Kentucky Acts, Chapter 380, Part X, to empower Kentucky state government through technology and redesigned business systems. The following provisions apply to that Technology Trust Fund and any additional amounts made available and appropriated to it in this Part of this Act. It is separate and distinct from the new State Technology Projects Fund as established for the first time in this Part of this Act.

7. The General Assembly has determined that the following provisions shall apply to all General Fund appropriations in this Act to the Technology Trust Fund originally authorized and appropriated by the 1996 Kentucky Acts, Chapter 380, Part X.

8. Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from a discrete account established for the individual project, initiative, or system item in the Operating Budget and the Capital Budget.

9. In addition to the General Fund appropriations in this Part for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities identified by the Redesign Steering Committee. However, KRS 45.760(14), 45.770, 45.780, and 45.800 notwithstanding, no funds from the emergency repair, maintenance and replacement account or the capital construction and equipment purchase contingency account shall be used for Technology Trust Fund projects, systems, or initiatives.

10. Figures for amounts in all determinations, authorizations, and appropriations under the Plan shall be rounded to the lower hundredth dollar.

11. Notwithstanding KRS 45.229, appropriations from the General Fund for the projects, systems, and initiatives identified and authorized as part of the Plan shall be continued appropriations and not lapse to the General Fund. Appropriations made to components of the Plan in fiscal year 1998-99 shall be continued in fiscal year 1999-2000.

12. Nothing in this Part shall be construed as modifying, suspending, or superseding the Model Procurement Code as

set forth in KRS Chapter 45A.

13. Nothing in this Part shall be construed as modifying, suspending, or superseding the provisions of KRS Chapter 18A on the merit system.

PART XI

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	1997-98	1998-99	1999-00
General Fund	15,239,000	5,948,780,400	6,259,011,400
Restricted Funds	6,020,600	2,830,065,600	2,833,459,300
Federal Funds	925,000	4,362,966,900	4,355,573,800
Road Fund	2,300,000	1,011,826,000	1,064,954,000
Bond Funds		100,000,000	105,000,000
Subtotal	24,484,600	14,253,638,900	14,617,998,500

CAPITAL PROJECTS BUDGET

	1997-98	1998-99	1999-00
General Fund		37,773,000	1,410,000
Restricted Funds	10,888,000	607,871,000	121,601,000
Federal Funds	621,000	79,266,000	8,871,000
Bond Funds	3,200,000	647,815,000	
Road Fund		8,987,000	8,843,000
Agency Bonds		93,425,000	
Capital Construction Surplus	1,477,000	1,462,000	
Investment Income	698,000	31,152,000	13,100,000
Other Funds	1,599,000	126,309,000	29,889,000
Subtotal	18,483,000	1,634,060,000	183,714,000

TOTAL-STATE/EXECUTIVE BUDGET

	1997-98	1998-99	1999-00
General Fund	15,239,000	5,986,553,400	6,260,421,400
Restricted Funds	16,908,600	3,437,936,600	2,955,060,300
Federal Funds	1,546,000	4,439,229,900	4,361,441,800
Road Fund	2,300,000	1,020,813,000	1,073,797,000
Bond Funds	3,200,000	747,815,000	105,000,000
Agency Bonds		93,425,000	
Capital Construction Surplus	1,477,000	1,462,000	
Investment Income	698,000	31,152,000	13,100,000
Other Funds	1,599,000	126,309,000	29,889,000
TOTAL FUNDS	42,967,600	15,884,695,900	15,012,383,500

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

Motions, Petitions and Communications (Continued)

Representative Siler moved the adoption of the following **Legislative Citation No. 141**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincere congratulations to William J. and Mossie Siler upon the auspicious occasion of their Golden Wedding Anniversary. Members of the First Baptist Church of Millville, Ohio, the loving parents of Judy Oehler, Ida Sue Smith and Belinda Siler and cherished grandparents of five grandchildren and six great-grandchildren, this devoted couple was joined in holy matrimony on March 17, 1948. A retired employee of General Electric Aviation Division and a tournament-class bass fisherman, William J. Siler and his adored wife, Mossie, are hereby celebrated by Representative Charles Siler and the members of this distinguished body and extended sincere wishes for continued happiness and fulfillment. **Legislative Citation No. 141** was adopted without objection.

Representative Nesler moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Nesler moved the adoption of the following **Legislative Citation No. 142**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor of Jennifer Taylor upon the auspicious occasion of her twenty-first birthday. In celebration of this memorable event the entire membership joins with Representative Fred Nesler in commending this remarkable young lady for a life lived to the fullest and for the vitality of heart which has brought her thus far. This distinguished body hereby recognizes Jennifer Taylor on this meaningful occasion of her twenty-first birthday and extends to her best wishes for the hope of many fruitful years to come. **Legislative Citation No. 142** was adopted without objection.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative J. Arnold moved that he be recorded as voting "yea" on **HB 648**. Agreed.

Representative Brandstetter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Brandstetter moved that he be recorded as voting "nay" on **HB 699**. Agreed. Representative Brandstetter moved that he be recorded as voting "yea" on **HB 742, HB 217**, and **HJR 60**. Agreed.

Representative Jenkins moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jenkins moved that she be recorded as voting "yea" on **HB 539**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Wilkey moved that his vote be changed from "nay" to "yea" on **HB 725**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jordan moved that she be recorded as voting "yea" on **HB 539**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Johns moved that she be recorded as voting "yea" on **HB 539**. Agreed.

Representative Cave moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Cave moved that he be recorded as voting "yea" on **HB 334**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Nesler moved that he be recorded as voting "yea" on **HB 611, HB 636, HB 537, SB 63** and "nay" on **HB 627**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Walton moved that his vote be changed from "yea" to "nay" on **HB 699**. Agreed. Representative Walton moved that he be recorded as voting "yea" on **HB 643**. Agreed.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Marcotte moved that he be recorded as voting "yea" on **HB 122**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Kerr moved that he be recorded as voting "nay" on **HB 699**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Barrows moved that he be recorded as voting "yea" on **HB 122, HB 334,** and **HB 648**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 65**, Representative Horlander; **HB 206**, Representative Miller; **HB 671**, Representative Riggs; **HB 677**, Representative Walton; **HB 723**, Representative Yonts; **HB 877**, Representative D. D. Butler.

The following member filed a request to have his name withdrawn as co-sponsor of a Bill under rules previously suspended: **HB 709**, Representative Yonts.

Announcements

The following meetings were announced:

Economic Development, Room 111, 10:00 a.m., March 11, 1998.

Appropriations and Revenue, upon adjournment.

Tourism Development and Energy, 10:00 a.m., Room 125, March 11, 1998.

Elections and Constitutional Amendments, 10:00 a.m., March 11, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 11, 1998.

On the roll call the vote was **Yeas 76**--J. Adams, R. Adams, Adkins, A. Arnold, J. Arnold, Ballard, Baugh, Bowling, Brandstetter, Brown, Bruce, Burch, D. Butler, D. D. Butler, Callahan, L. Clark, J. Clarke, Colter, Cox, Crenshaw, Crimm, Damron, Deskins, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Rader, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 8**--Allen, Bratcher, Cave, Collins, Crall, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 11, 1998

FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Rabbi Eric Slaton, Ohavay Zion Synagogue, Lexington.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Lovell.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 10, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 13**, by Representative Stein:

On page 3, after line 22, insert the following:

"Section 7. KRS 344.020 is amended to read as follows:

(1) The general purposes of this chapter are:

(a) To provide for execution within the state of the policies embodied in the Federal Civil Rights Act of 1964 as amended (78 Stat. 241), Title VIII of the Federal Civil Rights Act of 1968 (82 Stat. 81), the Fair Housing Act as amended (42 U.S.C. 360), the Federal Age Discrimination in Employment Act of 1967 (81 Stat. 602), the Americans with Disabilities Act of 1990 (P.L. 101-336), and the Civil Rights Act of 1991 as amended (P.L. 102-166, amended by P.L. 102-392);

(b) To safeguard all individuals within the state from discrimination because of familial status, race, color, religion, national origin, sex, ***sexual orientation,*** age forty (40) and over, or because of the person's status as a qualified individual with a disability as defined in KRS 344.010 and KRS 344.030; thereby to protect their interest in personal dignity and freedom from humiliation, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest which would menace its democratic institutions, to preserve the public safety, health, and general welfare, and to further the interest, rights, and privileges of individuals within the state;

(c) To establish as the policy of the Commonwealth the safeguarding of the rights of an individual selling or leasing his primary residence through private sale without the aid of any real estate operator, broker, or salesman and without advertising or public display.

(2) This chapter shall be construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

(3) Nothing in this chapter shall be construed as indicating an intent to exclude local laws on the same subject matter not inconsistent with this chapter.

(4) Nothing contained in this chapter shall be deemed to repeal any other law of this state relating to discrimination because of familial status, race, color, religion, national origin, sex, ***sexual orientation,*** age forty (40) and over, or because of the person's status as a qualified individual with a disability as defined in KRS 344.030.

Section 8. KRS 344.025 is amended to read as follows:

No provision in KRS Chapter 18A shall be construed to preclude any classified or unclassified state employee from appealing to the personnel board any action alleged to be in violation of laws prohibiting discrimination based on a person's status as a qualified individual with a disability, sex, ***sexual orientation,*** age, religion, or race or national origin, in accordance with this chapter.

Section 9. KRS 344.040 is amended to read as follows:

It is an unlawful practice for an employer:

(1) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to

compensation, terms, conditions, or privileges of employment, because of the individual's race, color, religion, national origin, sex, ***sexual orientation,*** age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;

(2) To limit, segregate, or classify employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect status as an employee, because of the individual's race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, because the person is a qualified individual with a disability, or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking; or

(3) To require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking.

Section 10. KRS 344.050 is amended to read as follows:

(1) It is an unlawful practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, an individual because of his race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability, or to classify or refer for employment an individual on the basis of disability, race, color, religion, national origin, sex, ***sexual orientation,*** or age between forty (40) and seventy (70).

(2) It is an unlawful practice for a licensing agency to refuse to license, or to bar or terminate from licensing an individual because of race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability.

Section 11. KRS 344.060 is amended to read as follows:

It is an unlawful practice for a labor organization:

(1) To exclude or to expel from its membership, or otherwise to discriminate against, a member or applicant for membership because of race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability.

(2) To limit, segregate, or classify its membership, or to classify or fail to refuse to refer for employment an individual, in any way which would deprive or tend to deprive an individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect the status as an employee or as an applicant for employment, because of race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability.

(3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

Section 12. KRS 344.070 is amended to read as follows:

It is an unlawful practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against an individual because of race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability in admission to or employment in, any program established to provide apprenticeship or other training.

Section 13. KRS 344.080 is amended to read as follows:

It is an unlawful practice for an employer, labor organization, licensing agency, or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by the employment or licensing agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability, except that such a notice or advertisement may indicate a preference, limitation, or specification based on religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability, when religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability, is a bona fide occupational qualification for employment.

Section 14. KRS 344.100 is amended to read as follows:

Notwithstanding any other provision of this chapter, it is not an unlawful practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if the differences are not the result of an intention to discriminate because of race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability, nor is it an unlawful practice for an employer to give and to act upon the results of any professionally developed ability test provided that the test, its administration or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability.

Section 15. KRS 344.110 is amended to read as follows:

(1) Nothing contained in this chapter requires an employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to an individual or to a group because of the race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability, of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability, employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship or other training program, in comparison with the total number or percentage of persons of race, color, religion, national origin, sex, ***sexual orientation,*** or age forty (40) and over, or because the person is a qualified individual with a disability, in the state or a community, section, or other area, or in the available workforce in the state or a community, section, or other area.

(2) Nothing contained in this chapter shall prohibit:

(a) Minimum hiring ages otherwise provided by law.

(b) State compliance with federal regulations.

(c) Termination of the employment of any person who is unable to perform the essential functions of the job, with or without reasonable accommodation.

(d) Any post-job-offer physical or medical examinations of applicants or employees which an employer requires to determine their ability to perform the essential functions of the job, with or without reasonable accommodation.

(e) An employer, labor organization, or employment agency from observing the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan which is not a subterfuge to evade the purposes of this chapter, except that no such employee benefit plan shall excuse the failure to hire any individual.

Section 16. KRS 344.120 is amended to read as follows:

Except as otherwise provided in KRS 344.140 and 344.145, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement, as defined in KRS 344.130, on the ground of disability, race, color, religion, ***sexual orientation,*** or national origin.

Section 17. KRS 344.140 is amended to read as follows:

It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue, display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a written, printed, oral, or visual communication, notice, or advertisement, which indicates that the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement will be refused, withheld from, or denied an individual on account of disability, race, color, religion, ***sexual orientation,*** or national origin, or that the patronage of, or presence at, a place of public accommodation, resort, or amusement, of an individual, on account of disability, race, color, religion, ***sexual orientation,*** or national origin is objectionable, unwelcome, unacceptable, or undesirable.

Section 18. KRS 344.300 is amended to read as follows:

(1) Cities and counties are authorized to adopt and enforce ordinances, orders, and resolutions prohibiting all forms of discrimination, including discrimination on the basis of race, color, religion, disability, familial status, or national origin, sex, ***sexual orientation,*** or age, and to prescribe penalties for violations thereof, such penalties being in addition to the remedial orders and enforcement herein authorized.

(2) Cities and counties may adopt and enforce ordinances, orders, and resolutions prohibiting discrimination; no ordinance, order or resolution shall attempt to exempt more transactions from its coverage than are exempted by KRS 344.362 and 344.365.

Section 19. KRS 344.310 is amended to read as follows:

Any city or county, or one (1) or more cities and counties acting jointly, may create a human rights commission (hereinafter a "local commission"):

(1) To provide for execution within its jurisdiction of the policies embodied in this chapter and the Federal Civil Rights Act of 1964 (78 Stat. 241); and

(2) To safeguard all individuals within its jurisdiction from discrimination because of race, color, religion, or national origin, sex, ***sexual orientation,*** or age.

Section 20. KRS 344.360 is amended to read as follows:

It is an unlawful housing practice for a real estate operator, or for a real estate broker, real estate salesman, or any person employed by or acting on behalf of any of these:

(1) To refuse to sell, exchange, rent, or lease, or otherwise deny to or withhold, real property from any person because of race, color, religion, sex, ***sexual orientation,*** familial status, disability, or national origin;

(2) To discriminate against any person because of race, color, religion, sex, ***sexual orientation,*** familial status, disability, or national origin in the terms, conditions, or privileges of the sale, exchange, rental, or lease of real property or in the furnishing of facilities or services in connection therewith;

(3) To refuse to receive or transmit a bona fide offer to purchase, rent, or lease real property from any person because of race, color, religion, sex, ***sexual orientation,*** familial status, disability, or national origin;

(4) To refuse to negotiate for the sale, rental, or lease of real property to any person because of race, color, religion, sex, ***sexual orientation,*** familial status, disability, or national origin;

(5) To represent to any person that real property is not available for inspection, sale, rental, or lease when it is so available, or to refuse to permit any person to inspect real property because of his race, color, religion, sex, ***sexual orientation,*** familial status, disability, or national origin;

(6) To make, print, circulate, post, or mail or cause to be printed, circulated, posted, or mailed an advertisement or sign, or to use a form of application for the purchase, rental, or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental, or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, sex, ***sexual orientation,*** familial status, disability, or national origin or an intent to make such a limitation, specification, or discrimination;

(7) To offer, solicit, accept, use, or retain a listing of real property for sale, rental, or lease with the understanding that any person may be discriminated against in the sale, rental, or lease of that real property or in the furnishing of facilities or services in connection therewith because of his race, color, religion, sex, ***sexual orientation,*** familial status, disability, or national origin;

(8) To otherwise deny to or withhold real property from any person because of his race, color, religion, sex, ***sexual orientation,*** familial status, disability, or national origin;

(9) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a housing accommodation to any buyer or renter because of a disability of:

- (a) That buyer or renter;
- (b) A person residing in or intending to reside in that housing accommodation after it is so sold, rented, or made available; or
- (c) Any person associated with that buyer or renter; or

(10) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such housing accommodation, because of a disability of:

- (a) That person; or
- (b) A person residing in or intending to reside in that housing accommodation after it is sold, rented, or made available; or
- (c) Any person associated with that person.

(11) For purposes of this section, discrimination includes:

- (a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by a person, if the modifications may be necessary to afford the person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.
- (b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a housing accommodation; or
- (c) In connection with the design and construction of covered multifamily housing accommodations for first occupancy after January 1, 1993, a failure to design and construct those housing accommodations in a manner ensuring that they have at least one (1) entrance on an accessible route unless impractical to do so because of the terrain or unusual characteristics of the site. Housing accommodations with a building entrance on an accessible route shall comply with the following requirements:
    1. The public use and common use portions of the housing accommodations shall be readily accessible to and usable by disabled persons;
    2. All the doors designed to allow passage into and within all premises within the housing accommodations shall be sufficiently wide to allow passage by disabled persons in wheelchairs; and
    3. All premises within the housing accommodations shall contain the following features of adaptive design:

a. An accessible route into and through the housing accommodation;

b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(12) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled persons, (commonly cited as "ANSI A117.1 - 1986") suffices to satisfy the requirements of subsection (11)(c)3. of this section.

(13) As used in subsection (11) of this section, the term "covered multifamily housing accommodation" means:

(a) Buildings consisting of four (4) or more units if the buildings have one (1) or more elevators; and

(b) Ground floor units in other buildings consisting of two (2) or more units.

(14) Nothing in this section requires that a housing accommodation be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Section 21. KRS 344.362 is amended to read as follows:

The prohibition of sex-based discrimination[~~Nothing~~] in KRS 344.360 shall ***not*** apply to:

(1) The YMCA, YWCA, and similar type single sex dormitory rental properties, including, but not limited to, those dormitories operated by institutions of higher education;

(2) A landlord who refused to rent to an unmarried couple of opposite sex;

(3) A landlord who chooses to rent only to men or only to women; provided that the landlord engages in the rental to no more than ten (10) persons or of no more than ten (10) self-contained units in an owner occupied housing accommodation;

(4) Rooms or rental units where tenants would be required to share common bath or kitchen facilities; and

(5) To any housing accommodation where it can be demonstrated that gender-based exclusions are necessary for reasons of personal modesty or privacy.

Section 22. KRS 344.367 is amended to read as follows:

It is an unlawful practice for a person in the business of insuring against hazards to refuse to enter into, or discriminate in the terms, conditions, or privileges of, a contract of insurance against hazards to a housing accommodation because of the race, color, religion, national origin, familial status, disability, ***sexual orientation,*** or sex of persons owning, or residing in or near the housing accommodation.

Section 23. KRS 344.370 is amended to read as follows:

It is an unlawful practice for a financial institution or for any person or other entity whose business includes engaging in real estate-related transactions:

(1) To discriminate against an individual because of the race, color, religion, or national origin, familial status, disability, sex, ***sexual orientation,*** or age of the individual or the present or prospective owner, tenant, or occupant of the real property or of a member, stockholder, director, officer, employee, or representative of any of these, in the granting, withholding, extending, modifying, or renewing the rates, terms, conditions, privileges, or other provisions of financial assistance or in the extension of services in connection therewith;

(2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicate, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, familial status, ***sexual orientation,*** disability, or national origin or an intent to make such a limitation, specification, or discrimination;

(3) To discriminate by refusing to give full recognition, because of sex, to the income of each spouse or the total income and expenses of both spouses where both spouses become or are prepared to become joint or several obligors in real estate transactions; or

(4) As used in this section, the term "real estate-related transaction" means any of the following:

(a) The making or purchasing of loans or providing other financial assistance;

1. For purchasing, constructing, improving, repairing, or maintaining a housing accommodation; or

2. Secured by real estate.

(b) The selling, brokering, or appraising of real property except that a person engaged in the business of furnishing appraisals of real property may take into consideration factors other than race, color, religion, national origin, sex, ***sexual orientation,*** disability, or familial status.

Section 24. KRS 344.380 is amended to read as follows:

It is an unlawful practice for a real estate operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which a person may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, sex, ***sexual orientation,*** disability, familial status, or national origin of the owners or occupants in the block, neighborhood, or area in which the real property is located;

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located; or

(3) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, ***sexual orientation,*** disability, familial status, or national origin.

Section 25. KRS 344.400 is amended to read as follows:

(1) It shall be an unlawful practice for any person, whether acting for himself or another, in connection with any credit transaction because of race, color, religion, national origin***, sexual orientation,*** or sex to:

  (a) deny credit to any person;

  (b) increase the charges or fees for or collateral required to secure any credit extended to any person;

  (c) restrict the amount or use of credit extended or impose different terms or conditions with respect to the credit extended to any person or any item or service related thereto;

  (d) attempt to do any of the unlawful practices defined in this section.

(2) The provisions of this section shall not prohibit any party to a credit transaction from considering the credit history of any individual applicant.

(3) The provisions of this section shall not prohibit any party to a credit transaction from considering the application of Kentucky law on dower, curtesy, descent and distribution to the particular case or from taking reasonable action thereon.

Section 26. KRS 344.680 is amended to read as follows:

It shall be unlawful to deny any person access to, or membership or participation in, any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or to discriminate against a person in the terms or conditions of access, membership, or participation, on account of race, color, religion, sex, ***sexual orientation,*** disability, familial status, or national origin."

Floor Amendment No. 2 Title to **HB 13**, by Representative Stein:

Amend the title to read as follows: "AN ACT relating to civil rights."

Senate Message

Announcing passage of **SB 72, SB 336, SB 380, SJR 87, HB 159**, and **HB 390**. Message received on **HB 226**: The Senate has passed **HB 226** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 402**: The Senate has passed **HB 402** with Senate Committee Amendment No. 1 and Senate Floor Amendment No. 2 and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 304**

Appropriations and Revenue: **SB 349, SB 234**

Banking and Insurance: **SB 343, SB 353**

Education: **SB 21**

Health and Welfare: **HR 130**

Judiciary: **SB 276, SB 352**

Licensing and Insurance: **SB 363**

Natural Resources and Environment: **SB 164, SJR 118**

Transportation: **SB 395**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 3**,with Committee Substitute attached thereto, **HB 253**, and **HB 551**,with Committee Amendment attached thereto, and **HJR 89**,with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 3, AN ACT relating to state financial administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 45.750 TO 45.810 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any statutory provisions to the contrary, any state agency as defined in KRS 7A.010, institution of higher education as defined in KRS 164A.305, or affiliated corporation as defined in KRS 164A.550, shall obtain authorization from the General Assembly prior to entering into an agreement identified in subsection (2) of this section. The General Assembly authorization shall occur only when the General Assembly enacts legislation specifically authorizing the agreement.

(2) General Assembly authorization shall be required for an agreement for the use, purchase, or acceptance of real property of any value, or equipment with a value in excess of four hundred thousand dollars ($400,000), if:

- *(a) The agreement provides that the state, a state agency, institution of higher education, or affiliated corporation will become the owner of the real property or equipment at any time; and*
- *(b) All or any portion of the purchase price of the real property or equipment is funded through the issuance of a financial instrument which requires payment of principal and interest over time, including, but not limited to, notes, bonds, securities, and certificates of participation, regardless of the identity of the issuer.*

Section 2. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The head of each of the three (3) branches of government shall include in the branch budget recommendation and in the draft branch budget bill for his branch submitted to each regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1994, and for each biennium thereafter, a recommended state capital projects program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

- (a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and
- (b) For each project:
    1. The agency and purpose for which it will be used;
    2. The justification for the project;
    3. Its estimated completion date;
    4. The total estimated cost of completing the project;
    5. The estimated cost of the project during the biennium;
    6. The recommended sources of funds for the entire project; and
    7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6., and 7. of subsection (2)(b) of this section.

(4) A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund, and for any affected restricted fund account.

(5) Information in the report shall include, but not be limited to, the following:

- (a) Debt service on existing appropriation-supported debt as a percent of anticipated total revenues;

(b) Debt service on existing appropriation-supported debt as a percent of anticipated available revenues;

(c) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated total revenues;

(d) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated available revenues;

(e) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of estimated state total personal income; and

(f) The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percent of estimated state total personal income.

(6) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly, except as provided in this section, KRS 45.770, and 45.780.

(7) The recommended program for the purchase of major items of equipment, submitted by the head of each of the three (3) branches of government, shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

1. The agency and purpose for which it will be used;
2. The justification for the purchase;
3. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;
4. The recommended sources of funds; and
5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(8) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.

(9) When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the Capital Projects Program. General fund moneys appropriated for that project or item of equipment but not allotted, and general fund moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency or federal funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund. Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.

(10) Projects and major items of equipment disapproved under subsection (9) of this section shall be terminated.

(11) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly and authorizing the purchase, except as provided in subsections (12) and (13) of this section and in KRS 45.770 and 45.780.

(12) A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report enacted for the current biennium, subject to the following conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(13) Moneys from any source may be transferred to the allotment account of any capital project authorized by the General Assembly under this section, subject to the following conditions and procedures:

(a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:

1. The source of funds is private or federal; or

2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the capital project.

(c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.

(d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:

1. Paid for out of private or federal funds; or

2. Required by an unforeseen decision by a federal or state court or regulatory agency; and

3. Not allotted or reallotted from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and

4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

(e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.

(14) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account;

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and

(c) The relevant entity head, or his designee, shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(15) The capital construction and equipment purchase contingency fund may be used to advance funds to projects authorized to be financed by bonds, to finance feasibility studies for projects which may be contemplated for future funding, or to audit the capital projects program when authorized by the General Assembly.

(16) On or before October 1, each of the three (3) branches of government shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

1. The project phase;

2. The project account number, project name, and any other term employed to identify the project or major item of equipment;

3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;

4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;

5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;

6. Total expenditure on the project or major item of equipment;

7. The current estimated completion cost, including the amount required for annual inflation; and

8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

(17) When the General Assembly authorizes a capital construction item in the capital construction section of a branch budget bill, the entity head charged with executing the branch budget shall construct the capital construction item according to the requirements set forth in the branch budget bill, statutory budget memorandum, supporting documentation considered by the General Assembly, and branch budget records. The entity head shall not deviate from these requirements with regard to:

(a) Purpose or location to the extent that the capital construction item no longer meets the identified needs;

(b) Size in an amount equal to or greater than fifteen percent (15%) of the square footage by use category; or

(c) Configuration for reasons other than practical accommodation to the construction site.

The Committee Substitute to **HB 3** is as follows:

AN ACT relating to state financial administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 45.750 TO 45.810 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any statutory provisions to the contrary, any state agency as defined in KRS 7A.010, institution of higher education defined as an institution in KRS 164A.550, or affiliated corporation as defined in KRS 164A.550, shall obtain authorization from the General Assembly prior to entering into an agreement identified in subsection (2) of this section. The General Assembly authorization shall occur only when the General Assembly enacts legislation specifically authorizing the agreement.

(2) General Assembly authorization shall be required for an agreement for the use, purchase, or acceptance of real property of any value, or equipment with a value in excess of four hundred thousand dollars ($400,000), if:

(a) The agreement provides that the state, a state agency, institution of higher education, or affiliated corporation will become the owner of the real property or equipment at any time; and

(b) All or any portion of the purchase price of the real property or equipment is funded through the issuance of a financial instrument which requires payment of principal and interest over time, including, but not limited to, notes, bonds, securities, and certificates of participation, regardless of the identity of the issuer.

Section 2. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The head of each of the three (3) branches of government shall include in the branch budget recommendation and in the draft branch budget bill for his branch submitted to each regular session of the General Assembly pursuant to KRS 48.130, for the biennium period beginning July 1, 1994, and for each biennium thereafter, a recommended state capital projects program and a recommended program for the purchase of major items of equipment.

(2) The recommended capital construction program shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

1. The agency and purpose for which it will be used;
2. The justification for the project;
3. Its estimated completion date;
4. The total estimated cost of completing the project;
5. The estimated cost of the project during the biennium;
6. The recommended sources of funds for the entire project; and
7. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs 5., 6., and 7. of subsection

(2)(b) of this section.

(4) A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, the road fund, and for any affected restricted fund account.

(5) Information in the report shall include, but not be limited to, the following:

(a) Debt service on existing appropriation-supported debt as a percent of anticipated total revenues;

(b) Debt service on existing appropriation-supported debt as a percent of anticipated available revenues;

(c) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated total revenues;

(d) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of anticipated available revenues;

(e) The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percent of estimated state total personal income; and

(f) The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percent of estimated state total personal income.

(6) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly, except as provided in this section, KRS 45.770, and 45.780.

(7) The recommended program for the purchase of major items of equipment, submitted by the head of each of the three (3) branches of government, shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

1. The agency and purpose for which it will be used;

2. The justification for the purchase;

3. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;

4. The recommended sources of funds; and

5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(8) All information required by subsection (5) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4., and 5. of subsection (7)(b) of this section.

(9) When the General Assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the Capital Projects Program. General fund moneys appropriated for that project or item of equipment but not allotted, and general fund moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency or federal funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund. Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.

(10) Projects and major items of equipment disapproved under subsection (9) of this section shall be terminated.

(11) During any biennium beginning July 1, 1992, and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in any branch budget bill, statutory budget memorandum, and biennial budget report enacted by the General Assembly and authorizing the purchase, except as provided in subsections (12) and (13) of this section and in KRS 45.770 and 45.780.

(12) A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report enacted for the current biennium, subject to the following conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(13) Moneys from any source may be transferred to the allotment account of any capital project authorized by the General Assembly under this section, subject to the following conditions and procedures:

(a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:

1. The source of funds is private or federal; or

2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the capital project.

(c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.

(d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:

1. Paid for out of private or federal funds; or

2. Required by an unforeseen decision by a federal or state court or regulatory agency; and

3. Not allotted or reallotted from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and

4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

(e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.

(14) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, statutory budget memorandum, and biennial budget report, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account;

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and

(c) The relevant entity head, or his designee, shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(15) The capital construction and equipment purchase contingency fund may be used to advance funds to projects authorized to be financed by bonds, to finance feasibility studies for projects which may be contemplated for future funding, or to audit the capital projects program when authorized by the General Assembly.

(16) On or before October 1, each of the three (3) branches of government shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

1. The project phase;

2. The project account number, project name, and any other term employed to identify the project or major item of equipment;

3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;

4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;

5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;

6. Total expenditure on the project or major item of equipment;

7. The current estimated completion cost, including the amount required for annual inflation; and

8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

(17) When the General Assembly authorizes a capital construction item in the capital construction section of a branch budget bill, the entity head charged with executing the branch budget shall construct the capital construction item according to the requirements set forth in the branch budget bill, statutory budget memorandum, supporting documentation considered by the General Assembly, and branch budget records. The entity head shall not deviate from these requirements with regard to:

(a) Purpose or location to the extent that the capital construction item no longer meets the identified needs; or

(b) Configuration for reasons other than practical accommodation to the construction site or specific program to be accommodated within that capital construction item.

HB 253, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to ***fifty cents ($0.50)***[~~twenty-five cents ($0.25)~~] or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;

(b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;

2. Classified as "residential" by a municipally-owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally-owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the seller and the seller maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale are not subject to the sales or use tax. The property shall be regarded as having been purchased for resale. For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter

into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170; and

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority.

Section 2. This Act takes effect August 1, 1998.

HB 551, AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1) There is appropriated out of the general fund in the State Treasury for the purpose of compensating persons and companies named below for claims which have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations against which the claims were chargeable, the amounts listed below:

1. AR Head Neck Center $458.25
200 Medical Center Drive, #2N
Hazard, Kentucky 41701-9422

2. Newberry, Hargrove, Rambicure, PSC..$1,848.81
2800 Lexington Financial Center
250 West Main Street
Lexington, Kentucky 40507-1743

3. Joy Ogles..$1,084.33
13 Huntington Drive
Clarksville, Tennessee 37043-5824

4. Jonny Vermillion $2,937.29
P.O. Box 686
Hazard, Kentucky 41701

5. Seiller and Handmaker, LLP..$805.97
Attorneys at Law
2200 Meidinger Tower
Louisville, Kentucky 40202

6. Office of the Pike County Attorney..$40,252.40
P.O. Box 231
Pikeville, Kentucky 41501

7. Advanced Clinical Technologies..$840.00
410 South First Street, Suite 219
Louisville, Kentucky 40202

8. BellSouth..$54.06
P.O. Box 33009
Charlotte, North Carolina 28243-0001

9. Nobrega Prescription Center..$36.64
DBA Battson Drug
233 East Main Street
Morehead, Kentucky 40351

10. Hurstbourne Business Park Partnership $1,790.33
136 St. Matthews Avenue
Louisville, Kentucky 40207

11. City of Radcliff...$15,233.00
P.O. Drawer 519
Radcliff, Kentucky 40159-0519

12. BellSouth Telecommunications, Inc...$1,698.12
Payment Remittance Office
125 Perimter Center West, Room 190
Atlanta, Georgia 30346

13. Charlie Wilkins..$2,625.00
864 Wildlife Lodge Road
LaCenter, Kentucky 42056

14. Treasurer, Clark County Board of Education................................$22,872.21
1600 West Lexington Avenue
Winchester, Kentucky 40391

15. Integrated Systems Solutions Corporation....................................$5,549.51
455 Park Place
Lexington, Kentucky 40511-1856

16. Jefferson County Treasurer $150,000.00
Jefferson County Youth Center
720 West Jefferson Street
Louisville, Kentucky 40202-2717

17. Brown, Todd, and Heyburn, PLLC...$64,457.14
3200 Providian Center
400 West Market Street
Louisville, Kentucky 40202-3363

18. Weber and Rose..$5,269.48
2700 Providian Center
400 West Market Street
Louisville, Kentucky 40202-3364

19. W. David Shearer, Jr...$879.50
Suite 812, Marion E. Taylor Building
312 South Forth Avenue
Louisville, Kentucky 40202-3083

20. Brown, Todd, and Heyburn, PLLC...$4,129.02
3200 Providian Center
400 West Market Street
Louisville, Kentucky 40202-3363

21. Wyatt, Tarrant, and Combs..$13,643.42
Citizens Plaza
500 West Jefferson Street
Louisville, Kentucky 40202

22. David L. Holton II...$4,240.00
7210 Dixie Highway
Louisville, Kentucky 40258

23. RiverValley Behavioral Health Hospital..$7,484.00
P.O. Box 1637
Owensboro, Kentucky 42302-1637

24. Glenda S. Ockerman..$4,123.84
1662 Chrissie Lane
Maysville, Kentucky 41056-9162

25. Paul L. Whalen...$1,654.38
113 Ridgeway Avenue
P.O. Box 22
Fort Thomas, Kentucky 41075

26. Terry Gray, President...$1,908.98
T.A.G. Resource Recovery
18038 Radworthy Drive, Suite 110
Houston, Texas 77084

27. Child Protection, Inc..$125.00
869 Broadway Avenue
Bowling Green, Kentucky 42101

(2) The claims listed below are for the payment of State Treasury checks payable to the persons or their representatives, and the firms listed, but not presented for payments within a period of five (5) years from the date of issuance of such checks as required by KRS 41.370 and 413.120.

		Payee	Treasury Fee	Check Fee
1.	Check #402961 dated July 31, 1962 John Lawrence Jones, Jr. Kenneth V. Anderson, Jr. 2320 Broadway Paducah, Kentucky 42001 (totals)	$500.00	$25.00	$475.00
2.	Check #A5,802,429 dated January 1, 1973 Estate of Nova Bertram Spann c/o G. George Bertram, Attorney at Law P.O. Box 327 Monticello, Kentucky 42633 (totals)	$45.00	$25.00	$20.00
3.	Check #M0,503,817 dated September 20, 1974 Midway Drug Midway, Kentucky 40347 (totals)	$145.78	$25.00	$120.78
4.	Check #P9,115,090 dated July 30, 1981 Edna F. Phillips 621 Beaumont Avenue Lexington, Kentucky 40502 (totals)	$239.00	$25.00	$214.00

5.	Check #T,0385,818			
	dated April 12, 1982			
	Michael L. Schmidt			
	186 Winters Lane			
	Cold Spring, Kentucky			
	41076 (totals)	$33.85	$25.00	$8.85
6.	Check #T1,485,575			
	dated June 8, 1983	$109.65	$25.00	$84.65
7.	Check #E0,437,156			
	dated July 1991	$48.00	$25.00	$23.00
	Helen Sanders			
	836 Sanders Lane			
	Reynolds Station, Kentucky			
	42368 (totals)	$157.65	$50.00	$107.65
8.	Check #T2,371,952			
	dated June 26, 1984			
	Maurice E. and Barbara Woods			
	5510 Tealeaf Court			
	Louisville, Kentucky			
	40291 (totals)	$148.28	$25.00	$123.28
9.	Check #P3,001,039			
	dated August 23, 1984			
	E.T. Lorenzo			
	5220 Buckner Drive			
	Huber Heights, Ohio			
	45424-6133 (totals)	$138.60	$25.00	$113.60
10.	Check #G0,166,115			
	dated December 17, 1984			
	Darrell Mullins and U,L,H,P, and Company			
	Account Number 5540-2034-02-4			
	380 Spillman Lane			
	Dry Ridge, Kentucky			
	41035 (totals)	$150.00	$25.00	$125.00
11.	Check #G0,261,931			
	date January 17,1985			
	Treasurer, City of Pineville			
	P.O. Box 688			
	Pineville, Kentucky			
	40977 (totals)	$3,135.35	$25.00	$3,110.35
12.	Check #T3,162,770			
	dated May 21, 1985			
	Teri Eisenmenger			
	7804 Canonero Way			
	Louisville, Kentucky			
	40291 (totals)	$177.00	$25.00	$152.00

13.	Check #T3,312,703 dated September 5, 1985 Walter M. and Nellie Whelan 3017 Hayfield Drive Louisville, Kentucky 40205 (totals)	$64.41	$25.00	$39.71
14.	Check #T4,196,823 dated July 8, 1986 David M. Gardner 3935 Harmony Grove Road Hopkinsville, Kentucky 42240 (totals)	$43.95	$25.00	$18.95
15.	Check #G1,561,022 dated August 5, 1986 J. Sharps Crislip 1350 West Broadway Mayfield, Kentucky 42066 (totals)	$150.00	$25.00	$125.00
16.	Check #G1,600,492 dated August 20, 1986 Mountain Supply Company General Delivery Grays Knob, Kentucky 40829 (totals)	$1,562.80	$25.00	$1,537.80
17.	Check #A9,209,617 dated March 2, 1987 Linda Bates 7620 North Highway 1247 Science Hill, Kentucky 42553 (totals)	$140.00	$25.00	$115.00
18.	Check #G2,603,758 dated September 9, 1987 Debbie's Hair Design c/o Debbie Denniston P.O. Box 323 Campton, Kentucky 41301 (totals)	$471.52	$25.00	$446.52
19.	Check #G3,090,130 dated February 19,1988 Pattie Caldwell Farmer P.O. Box 71 Wallins Creek, Kentucky 40873 (totals)	$50.00	$25.00	$25.00
20.	Check #T5,701,670 dated May 24, 1988 Jack B. and Wilma Richardson 312 Ragan Avenue			

	Henderson, Kentucky 42420 (totals)	$4,010.00	$25.00	$3,985.00
21.	Check #G3,440,529 dated July 12, 1988 American Association of School Administrators 1801 North Moore Street Arlington, Virginia 22209 (totals)	$1,700.00	$25.00	$1,675.00
22.	Check #T6,015,936 dated July 25, 1988 John C. White 4003 Madia Drive Somerset, Kentucky 42503 (totals)	$2,154.92	$25.00	$2,129.92
23.	Check #G3,715,813 dated October 25, 1988 Foreign Auto Salvage, Inc. 1980 Highland Pike Fort Wright, Kentucky 41017 (totals)	$420.93	$25.00	$395.93
24.	Check #T6,367,696 dated April 13 1989 Criag T. Mattingly 2033 Thomerson Park Road Austin, Kentucky 42123 (totals)	$71.71	$25.00	$46.71
25.	Check #G4,326,869 dated May 30, 1989 Jimmy O. Kelly 630 Gravely Road Kingsport, Tennessee 37660 (totals)	$208.00	$25.00	$183.00
26.	Check #G5,508,211 dated May 24, 1990 Stephen G. Nanny P.O. Box 182 Murray, Kentucky 42071 (totals)	$500.00	$25.00	$475.00
27.	Check #T7,667,831 dated July 9, 1990 Laith M. Ross 536 McCubbing Drive Lexington, Kentucky 40503 (totals)	$67.00	$25.00	$42.00
28.	Check #G6,048,304 dated November 5, 1990 Gray G. Eldridge			

	P.O. Box 787			
	Morehead, Kentucky			
	40351 (totals)	$228.46	$25.00	$203.46
29.	Check #A2,397,203			
	dated December 1, 1990			
	John J. Schuler III			
	3805 Sunrise Way			
	Louisville, Kentucky			
	40220 (totals)	$162.00	$25.00	$137.00
30.	Check #T7900905			
	dated March 11, 1991	$780.44	$25.00	$755.44
31.	Check #T7900906			
	dated March 11, 1991	$30.01	$25.00	$5.01
	Mountain Metal Company			
	P.O. Box 131			
	Railroad Avenue			
	Prestonsburg, Kentucky			
	41668 (totals)	$810.45	$50.00	$760.45
32.	Check #T8124351			
	dated May 3, 1991			
	Mark A. Smith			
	906 South Lincoln Boulevard #3			
	Hodgenville, Kentucky			
	42748 (totals)	$75.69	$25.00	$50.69
33.	Check #T8525287			
	dated July 10, 1991			
	John F. Taylor			
	301C Bainbridge Drive			
	Lexington, Kentucky			
	40509 (totals)	$121.00	$25.00	$96.00
34.	Check #G7806742			
	dated January 24, 1992			
	Pine Mountain Contracting and Refrigeration Lines			
	c/o Fred G. Roark, Certified Public Account			
	57 Northwood Drive			
	Pikeville, Kentucky			
	41501 (totals)	$850.00	$25.00	$825.00
35.	Check #T9445677			
	dated July 2, 1992	$265.00	$25.00	$240.00
36.	Check #T9604791			
	dated July 2, 1992	$256.00	$25.00	$231.00
37.	Check #T9604792			
	dated July 2, 1992	$427.00	$25.00	$402.00
	Thomas H. and L. Owen, Jr.			
	230 Valley Road			
	Grand Rivers, Kentucky			
	42045 (totals)	$948.00	$75.00	$873.00

38. Check #M5,175,841
dated September 22, 1992
Harold Kincaid
P.O. Box 618
Beattyville, Kentucky
41311 (totals) $47.20 $25.00 $

39. Check #T0068181
dated April 2, 1993
Jeffery Lewis
2933 Chestnut Road
Whitehouse, Kentucky
41269 (totals) $389.00 $25.00 $

Section 2. The Finance and Administration Cabinet and the State listed claims from the following funds:

(1) The Kentucky Retirement Systems is authorized to make p reasury checks payable to the persons or their personal representatives but not pr) years from the date of issuance of the checks, the amounts listed below:

Payee Treasur

1. Check #R1,785,912
dated December 6, 1983
Estate of Nova Bertram Spann
c/o G. George Bertram, Attorney at Law
P.O. Box 327
Monticello, Kentucky
42633 (totals) $2,500.00

(2) The Workforce Development Cabinet is authorized to mal nsation Fund for State Treasury checks payable to the persons or their personal r ithin a period of five (5) years from the date of issuance of the checks, the amount

1. Check #U4328901
dated July 11, 1975
Virginia D. Pate-Shelton
4797 Highway 54
Owensburg, Kentucky
42301

2. Check #U1,780,615
dated August 4, 1987

3. Check #U1,780,616
dated August 4, 1987
J. Wheeler, Jr.
320 Spalding Lane
Cox's Creek, Kentucky
40013 (totals)

Section 3. Whereas the person and companies named above ha es, and materials enumerated, and the Commonwealth has received the same, a t takes effect upon its passage and approval by the Governor or upon its otherwise

The Committee Amendment No. 1 to **HB 551** is as follows:

On page 3, line 6, by deleting "$150,000" and inserting in lieu thereof "$150,500"; and

On page 4, after line 22 and before 23, by inserting the following:

"28. Wolnitzek, Rowekamp, Bender, and Bonar, P.S.C..$7,005.98
P.O. Box 352
Covington, Kentucky 41012-0352"; and

On page 7, line 22, by deleting "$39.71" and inserting in lieu thereof "$39.41"; and

On page 13, after line 7 and before line 8, by inserting the following:

"40. Check #T8111953
dated May 3, 1991
Thomas R. Allen
1325 Vim Drive
Louisville, Kentucky
40213 (totals) $257.00 $25.00 $232.00

"41. Check #349198
dated February 26, 1962
John W. Shean, P.O.A.
630 Kewanna Drive
Jeffersonville, Indiana
47130 (totals) $500.00 $25.00 $475.00"; and

On page 14, line 5, after "42301" by adding "(totals)".

HJR 89, A JOINT RESOLUTION creating a Task Force on Utility Tax Policy to direct a comprehensive study of the taxation of public service companies that supply utility service to citizens of the Commonwealth, and making an appropriation therefor.

WHEREAS, in recent years, federal law has directed public service companies to provide telecommunications services at retail in a competitive environment and has deregulated the sale of electricity and natural gas at wholesale; and

WHEREAS, other states have enacted legislation to restructure and deregulate electric and natural gas utilities to encourage competition among public service companies providing these utility services, and it is anticipated that similar legislation will be introduced in the Kentucky General Assembly; and

WHEREAS, Kentucky's current tax laws for public service companies were enacted under the assumption that utility services would be provided primarily by utilities operating as monopolies with prices set by cost of service rate regulation, and new technologies and the emerging competitive environments are creating new utility services and new types of public utility service providers, including marketers and those who resell services, that the current tax structure did not contemplate; and

WHEREAS, many local governments, local taxing districts, and school districts rely on state-administered tax programs for as much as half of their annual revenues; and

WHEREAS, absent changes in the tax laws, competition among utilities is likely to have a significant impact on state and local tax revenues through tax avoidance by some new utility providers, decreased costs for utility services, and declining value of utility property; and

WHEREAS, different utility providers are being taxed differently causing the current tax structure to create competitive advantages and disadvantages and creating an unlevel playing field; and

WHEREAS, there is much criticism and debate over the current state and local tax structure, rate classification, and prevailing methods of taxation subjecting them to much controversy, protest, and frequent litigation; and

WHEREAS, all public service companies providing utility services to the citizens of the Commonwealth should contribute their fair share of taxes in support of governmental services required by the citizens of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1) There is hereby established a Task Force on Utility Tax Policy to direct a study during the 1998-2000 interim regarding the method by which public service companies that provide utility services are currently taxed by state and local governments. The task force shall recommend the methods of taxation for the future to ensure fair and equitable taxation of these companies, improve the efficiency of revenue collections, and simplify compliance with tax laws in a fair and equitable manner.

(2) (a) The task force shall consist of the following members:

1. Six (6) members of the Senate, to be selected by the President of the Senate;
2. Six (6) members of the House, to be selected by the Speaker of the House; and
3. Six (6) members appointed by the Governor.

(b) The co-chairs shall be named, one each, by the Legislative Research Commission and the Governor.

Section 2. The Office of Financial Management and Economic Analysis, Finance and Administration Cabinet, shall supply staff support to the task force with assistance from the Revenue Cabinet and the Public Service Commission as needed. The task force shall be authorized to contract for consultant services.

Section 3. The task force may form one (1) or more advisory groups to assist the task force in carrying out its responsibilities. The advisory groups may include:

(1) An advisory group on telecommunications that may include one (1) or more representatives from the following:
    (a) Local exchange service;
    (b) Interstate long distance service;
    (c) Cellular services, both analog and digital;
    (d) Paging;
    (e) Cable, including wireline, multichannel multipoint distribution service and direct broadcast satellite;
    (f) Internet access service;
    (g) Resellers of telecommunications service;
    (h) Municipally owned providers of telecommunications services;
    (i) The Public Service Commission; and
    (j) Any additional representation the co-chairs of the task force deem appropriate.

(2) An advisory group on energy services that may include one (1) or more representatives from the following, including municipally owned, investor owned, and co-operatives:
    (a) Local electric distribution service;
    (b) Local gas distribution service;
    (c) Electric transmission service;
    (d) Gas transmission service;
    (e) Electric generation service;
    (f) Electric marketers;
    (g) Gas marketers;
    (h) The Public Service Commission; and
    (i) Any additional representation the co-chairs of the task force deem appropriate.

(3) An advisory group on local government utility revenue that may include one (1) or more representatives from the following:
    (a) Kentucky Association of Counties;
    (b) Kentucky League of Cities;
    (c) Kentucky County Judge/Executive Association;
    (d) Kentucky County Magistrates Association;
    (e) Special taxing districts;
    (f) Kentucky School Boards Associations;
    (g) Kentucky Department of Education;
    (h) Department for Local Government;
    (i) Revenue Cabinet; and
    (j) Any additional representation the co-chairs of the task force deem appropriate.

(4) Members of the advisory group shall serve without compensation. The members of the advisory groups shall be selected by the co-chairs of the task force from lists provided by the respective industries or associations.

Section 4. The sum of three hundred thousand dollars ($300,000) to accomplish this study is hereby appropriated in fiscal year 1998-1999 from the general fund to the Public Service Commission. Any unexpended balance on June 30, 1999, shall be continued into fiscal year 1999-2000. Any amount remaining following the completion of the study shall revert to the general fund. The task force shall report its findings and recommendations, with enabling legislation, to the Governor and the Legislative Research Commission by December 1, 1999.

The Committee Amendment No. 1 to **HJR 89** is as follows:

On page 4, line 13, after "Section 4." by deleting the remainder of the line; and

On page 4, by deleting lines 14 to 16 in their entirety; and

On page 4, line 17, by deleting "shall revert to the general fund.".

The Committee Amendment No. 2 Title to **HJR 89** is as follows:

By amending the title to read as follows: A JOINT RESOLUTION creating a Task Force on Utility Tax Policy to direct a comprehensive study of the taxation of public service companies that supply utility service to citizens of the Commonwealth.

The Committee on Appropriations and Revenue reported **HB 78,**with Committee Substitute and Committee Amendments attached thereto, **HB 211,**with Committee Amendment attached thereto, **HB 377,** with Committee Substitute and Committee Amendment attached thereto, **HB 447,** with Committee Amendment attached thereto, and, **HB 658,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to the Committee Substitute to **HB 78** is as follows:

On page 1, after line 21 by inserting the following:

"***(4) The council shall not meet more than four (4) times annually. Members may be reimbursed for expenses, but shall not receive a per diem allowance.***".

The Committee Amendment No. 2 to the Committee Substitute to **HB 78** is as follows:

On page 2, line 9, after "(3)" by deleting the remainder of the line; and

On page 2, line 10, by deleting "***most recent available census data.***"; and

On page 2, line 10, after "***Funds***" by inserting "***appropriated for this purpose***"; and

On page 2, line 11, after the period, by deleting the remainder of the line; and

On page 2, line 12, by deleting "***twenty thousand ($20,000).***".

The Committee Amendment No. 1 to **HB 211** is as follows:

On page 1, line 3, after "***(1)***" by inserting "***If a water supply system requests and receives authorization from the Division of Water to designate a prohibition area, no***" and by deleting "***No***" and

On page 1, line 4, after "***intake***" by inserting "***unless an extension of the area of prohibition is requested and granted under subsection (3) of this section***"; and

On page 1, line 6, after "***located.***" by inserting "***The division shall authorize a water supply system to designate a prohibition area if circumstances are demonstrated justifying the designation. The water supply system shall be responsible for posting***" and by deleting "***The Division of Water shall post***" and

after line 7, by inserting:

"***(3) The division shall allow water supply systems with intakes on lake waters of this state to request that the prohibition on mooring or anchoring be extended beyond one hundred (100) feet but no farther than three hundred (300) feet. The division may grant a request if the water supply system demonstrates circumstances that justify extending the area of prohibition. The division shall inform the Department for Fish and Wildlife Resources when an area of prohibition is designated or a request to extend an area of prohibition is granted.***

(4) Private or commercial docks in existence on the effective date of this Act shall be exempt from the provisions of subsection (1) if this section.".

The Committee Amendment No. 1 to the Committee Substitute attached thereto, to **HB 377** is as follows:

On page 1, line 22, by deleting "***one dollar ($1)***" and inserting in lieu thereof "***seventy-three cents ($0.73)***"; and
On page 1, line 22, by deleting the second "***one***"; and
On page 1, line 23, by deleting all new language.

The Committee Amendment No. 1 to **HB 447** is as follows:

On page 2, line 19, after "***shall***", by inserting "***, to the extent possible within existing appropriations,***"; and
On page 2, line 24, after "***shall***" by inserting "***, if possible,***".

The Committee Amendment No. 1 to **HB 658** is as follows:

On page 2, by deleting lines 1 to 3 in their entirety.

The Committee Amendment No. 2 Title to **HB 658** is as follows:

By amending the title to read as follows: "AN ACT relating to farm safety."

The Committee on State Government reported **HB 335**, with Committee Substitute attached thereto, **HB 569, HB 704**, with Committee Substitute attached thereto, **HB 784**, **HB 801**, with Committee Substitute and Committee Amendment attached thereto, **HB 813**, with Committee Substitute attached thereto, **HB 857**, **HCR 94**, **HCR 113**, with Committee Substitute attached thereto, and **HCR 125** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 335, AN ACT relating to hazardous duty retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet***,***~~[and]~~ paramedics and emergency medical technicians, ***and offender rehabilitation specialists for convicted sex offenders and substance abusers,*** with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions***, probation and parole field offices,*** and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates ***or probationers or parolees***. ***Hazardous positions shall also include jail inspectors.***

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652.

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 2. KRS 196.160 is amended to read as follows:

(1) The commissioner shall appoint a warden, a receiver, and other necessary employees for each of the state penal and correctional institutions. The compensation of these officers and employees may include maintenance. The commissioner may require these officers and employees to wear uniforms and to adopt, amend, or rescind administrative regulations governing dress and grooming standards of these uniformed officers and employees.

(2) The department shall make the contributions required by KRS 61.592 for participation in the hazardous duty retirement program by its employees in those positions in state correctional institutions***, including offender rehabilitation specialists for convicted sex offenders and substance abusers,*** and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

Section 3. KRS 197.420 is amended to read as follows:

(1) The department shall have the sole authority and responsibility for establishing by regulation the design of the specialized program created in KRS 197.400 to 197.440.

(2) The program shall include diagnostic and treatment services in both inpatient and outpatient environments:

(a) "Diagnostic services" shall include social and family histories, medical history, educational development, interpersonal development, criminal history, psychological screening, and pre-release evaluation;

(b) "Treatment services" shall include individualized treatment plans to include individual, group, marital, and family counseling; psychoeducational courses to include sex education and victim personalization; and social skills development to include assertiveness training, stress management, and aggression management; and

(c) The department shall have the authority and responsibility for establishing other educational and work programs necessary to complement treatment program objectives.

(3) The department may transfer sexual offenders sentenced to its custody to the program and shall adopt administrative regulations concerning the transfer of sexual offenders.

(4) All sexual offenders participating in the program may be housed separately from all other incarcerated inmates but shall be housed in accordance with the department's standard classification system.

(5) The treatment staff of the program shall minimumly consist of the following staff:

(a) A program director who has at least a master's degree in a recognized mental health field and six (6) years' clinical experience or a doctoral degree in a recognized mental health field and four (4) years' clinical experience. The director shall decide program policies and supervise all staff;

(b) A clinical psychologist or a master's degree level psychologist for each two hundred (200) participants. At least one (1) clinical psychologist shall be a member of the staff at all times; and

(c) A counselor for each fifty (50) participants.

(6) ***The positions of sex offender rehabilitation specialist and support staff shall be considered as hazardous duty positions within the meaning of Section 1 of this Act and the department shall make the employer contributions required for participation in the hazardous duty retirement program. Sex offender rehabilitation specialists and support staff working within state institutions, probation and parole field offices, and state-approved local jail programs shall qualify for hazardous duty retirement.***

(7) The department shall establish a system of data collection and program evaluation so as to allow study of participating sexual offenders and their offenses and to measure the impact of the program on recidivism.

Section 4. KRS 439.485 is amended to read as follows:

The ***positions***[~~position~~] of probation and parole officer ***and all other personnel employed in state probation and parole field***

offices shall be considered[~~ as a~~] hazardous duty ***positions***[~~position~~] within the meaning of KRS 61.592 and the department shall make the employer contributions required for participation in the hazardous duty retirement program.

Section 5. KRS 441.064 is amended to read as follows:

(1) ***(a)*** The department shall employ the jail consultants, inspectors, and other employees necessary to administer and enforce the provisions of KRS 441.055 to 441.075.

(b) The position of jail inspector shall be considered as a hazardous duty position within the meaning of Section 1 of this Act and the department shall make the employer contributions required for participation in the hazardous duty retirement program.

(2) The department shall inspect each jail which holds state prisoners biannually and may inspect jails more frequently.

(3) The department shall be granted access at any reasonable time to any jail facility or part of any jail facility and shall be granted access to all books, records, and data pertaining to any jail which the department deems necessary for the administration and enforcement of the provisions of KRS 441.055 to 441.075.

(4) Following an inspection of a jail, the department shall notify the jailer and the fiscal court by certified mail of any deficiencies which are discovered and documented. If the deficiencies are related to health or safety, the notification shall be sent within ten (10) working days, excluding weekends and holidays. The department shall submit an annual written report of the findings of its inspections and the condition of the jail to the jailer and the fiscal court.

The Committee Substitute to **HB 335** is as follows:

AN ACT relating to hazardous duty retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet***,***[~~ and~~] paramedics and emergency medical technicians, ***and offender rehabilitation specialists for convicted sex offenders and substance abusers,*** with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions***, probation and parole field offices,*** and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates ***or probationers or parolees***.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a

member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652.

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 2. KRS 196.160 is amended to read as follows:

(1) The commissioner shall appoint a warden, a receiver, and other necessary employees for each of the state penal and correctional institutions. The compensation of these officers and employees may include maintenance. The commissioner may require these officers and employees to wear uniforms and to adopt, amend, or rescind administrative regulations governing dress and grooming standards of these uniformed officers and employees.

(2) The department shall make the contributions required by KRS 61.592 for participation in the hazardous duty retirement program by its employees in those positions in state correctional institutions***, including offender rehabilitation specialists for convicted sex offenders and substance abusers,*** and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

Section 3. KRS 197.420 is amended to read as follows:

(1) The department shall have the sole authority and responsibility for establishing by regulation the design of the specialized program created in KRS 197.400 to 197.440.

(2) The program shall include diagnostic and treatment services in both inpatient and outpatient environments:

(a) "Diagnostic services" shall include social and family histories, medical history, educational development, interpersonal development, criminal history, psychological screening, and pre-release evaluation;

(b) "Treatment services" shall include individualized treatment plans to include individual, group, marital, and family counseling; psychoeducational courses to include sex education and victim personalization; and social skills development to include assertiveness training, stress management, and aggression management; and

(c) The department shall have the authority and responsibility for establishing other educational and work programs necessary to complement treatment program objectives.

(3) The department may transfer sexual offenders sentenced to its custody to the program and shall adopt administrative regulations concerning the transfer of sexual offenders.

(4) All sexual offenders participating in the program may be housed separately from all other incarcerated inmates but shall be housed in accordance with the department's standard classification system.

(5) The treatment staff of the program shall minimumly consist of the following staff:

(a) A program director who has at least a master's degree in a recognized mental health field and six (6) years' clinical experience or a doctoral degree in a recognized mental health field and four (4) years' clinical experience. The director shall decide program policies and supervise all staff;

(b) A clinical psychologist or a master's degree level psychologist for each two hundred (200) participants. At least one (1) clinical psychologist shall be a member of the staff at all times; and

(c) A counselor for each fifty (50) participants.

(6) ***The positions of sex offender rehabilitation specialist and support staff shall be considered as hazardous duty positions within the meaning of Section 1 of this Act and the department shall make the employer contributions required for participation in the hazardous duty retirement program. Sex offender rehabilitation specialists and support staff working within state institutions, probation and parole field offices, and state-approved local jail programs shall qualify for hazardous duty retirement.***

(7) The department shall establish a system of data collection and program evaluation so as to allow study of participating sexual offenders and their offenses and to measure the impact of the program on recidivism.

Section 4. KRS 439.485 is amended to read as follows:

The ***positions***[~~position~~] of probation and parole officer ***and all other personnel employed in state probation and parole field offices*** shall be considered[~~ as a~~] hazardous duty ***positions***[~~position~~] within the meaning of KRS 61.592 and the department shall make the employer contributions required for participation in the hazardous duty retirement program.

HB 569, AN ACT relating to definitions for statutory construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) "Animal" includes every warm-blooded living creature except a human being;

(3) "Attorney" means attorney-at-law;

(4) "Bequeath" and "devise" mean the same thing;

(5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;

(7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

(8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;

(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;

(10) "Directors," when applied to corporations, includes managers or trustees;

(11) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;

(12) "Domestic animal" means any animal converted to domestic habitat;

(13) "Federal" refers to the United States;

(14) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;

(15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(19) "Legatee" and "devisee" convey the same idea;

(20) "May" is permissive;

(21) "Month" means calendar month;

(22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(23) "Owner" when applied to any animal, means any person having a property interest in such animal;

(24) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, ***investigators of the Registry of Election Finance,*** and other persons with similar authority to make arrests;

(25) "Penitentiary" includes all of the state penal institutions except the houses of reform;

(26) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, registered limited liability partnerships, joint stock companies, and limited liability companies;

(27) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(28) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;

(29) "Shall" is mandatory;

(30) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(31) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state

organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(32) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(33) "United States" includes territories, outlying possessions, and the District of Columbia;

(34) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(35) "Violate" includes failure to comply with;

(36) "Will" includes codicils; "last will" means last will and testament;

(37) "Year" means calendar year;

(38) "City" includes town; and

(39) Appropriation-related terms are defined as follows:

(a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;

(b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;

(c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in an executive, judicial, or legislative branch budget bill as provided for in KRS Chapter 48.

HB 704, AN ACT relating to lease of real property for state use.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) Subsections (1) to (3) of Section 10 of this Act, this section, and Sections 2 to 5 of this Act shall govern the awarding of any new real property rental that has an annual lease payment in excess of seventy-five thousand dollars ($75,000).

(2) As used in Sections 2 and 5 of this Act, "new real property rental" shall be limited to the first time a lease is sought, a renewal of a lease if it involves a rent increase, and a consolidation of leases.

SECTION 2. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) One (1) or more new real property rental selection committees shall be created in the Finance and Administration Cabinet.

(2) Except when the provisions of KRS 56.805 or subsection (11)(a) of Section 5 of this Act apply, a new real property rental selection committee created in the Finance and Administration Cabinet shall participate in every instance of the cabinet's procurement of a new real property rental with an annual lease payment in excess of seventy-five thousand dollars ($75,000).

(3) A new real property rental selection committee created in the Finance and Administration Cabinet shall consist of six (6) or more members selected in the manner specified within this subsection:

(a) One (1) merit employee of the Finance and Administration Cabinet. The secretary of the cabinet shall appoint a pool of three (3) merit cabinet employees, but none of these three (3) shall be a cabinet employee who, during tenure on the selection committee, participates in meetings, discussions, or negotiations, under subsection (7) of Section 5 of this Act, or during tenure on the selection committee, provides information for or participates in the completion of site evaluation forms, under subsection (8) of Section 5 of this Act. The secretary, or the secretary's designee, under the supervision of the Auditor of Public Accounts, or the Auditor's designee, shall randomly select one (1) merit employee to serve on the selection committee;

(b) One (1) merit employee of the agency, that will occupy the real property, appointed by the head of that agency, to serve for the duration of the selection committee's participation in the project for which the employee was appointed by the agency. However, if the agency does not operate under the merit system, then the head of the agency shall appoint one (1) nonmerit employee;

(c) One (1) merit employee of the Office of the Attorney General. The Attorney General shall appoint a pool of three (3) merit employees to serve in the pool from which the secretary of the Finance and Administration Cabinet, or the secretary's designee, under the supervision of the Auditor of Public Accounts, or the Auditor's

designee, shall randomly select one (1) merit employee to serve on the selection committee;

(d) An individual. The Board of Real Estate Appraisers shall nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and Administration Cabinet, or the secretary's designee, under the supervision of the Auditor of Public Accounts, or the Auditor's designee, shall randomly select one (1) individual to serve on the selection committee;

(e) An individual. The Board of Real Estate Brokers shall nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and Administration Cabinet, or the secretary's designee, under the supervision of the Auditor of Public Accounts, or the Auditor's designee, shall randomly select one (1) individual to serve on the selection committee; and

(f) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who shall serve as nonvoting members of the selection committee. If one (1) employee is appointed, then that employee shall attend all committee proceedings. If more than one (1) employee is appointed, then at least one (1) of the employees shall attend each committee proceeding.

(4) (a) All selection committee members shall have experience that qualifies them to serve on the committee.

(b) Any individual appointed to serve in a pool from which selection committee members are drawn shall serve in the pool for an initial one (1) year term and may be reappointed to succeed himself or herself for another one (1) year term. The individual shall serve until a successor is appointed and qualified. At the conclusion of service in a pool, an individual shall be prohibited from serving in a pool until one (1) year has elapsed. A successor or replacement, in the case of a vacancy in the pool, shall be appointed in the same manner as the initial appointee. If a selection committee member, drawn from a pool, leaves a selection committee, a replacement shall be drawn from the pool in the same manner as the member who is leaving.

(c) Any individual appointed by the Auditor of Public Accounts to serve on selection committees shall serve an initial one (1) year term and may be reappointed to succeed himself or herself for another one (1) year term. At the conclusion of service, the individual shall be prohibited from serving on a selection committee until one (1) year has elapsed. A successor or a replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.

(d) The selection committee member appointed under subsection (3)(b) of this section shall serve on a project-by-project basis. The member shall participate only in committee action related to the project for which that member was appointed. A replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.

(5) (a) A person shall not serve in a pool from which selection committee members are drawn or on a selection committee if that person, the person's spouse, either of the person's parents, any of the person's siblings, or any of the person's children is employed by a firm, or owns one percent (1%) or more of a firm, from which the Commonwealth is renting real property.

(b) If, in the course of a person's service, the person, the person's spouse, either of the person's parents, any of the person's siblings, or any of the person's children becomes employed by a firm, or becomes owner of one percent (1%) or more of a firm, from which the Commonwealth is renting real property, then the person's service shall end.

(6) For a period of one (1) year after a person ends service on a selection committee, the Commonwealth shall not rent real property from a firm if that person, the person's spouse, either of the person's parents, any of the person's siblings, or any of the person's children is employed by a firm which was top-ranked by a selection committee on which the person served or owns one percent (1%) or more of a firm that was top-ranked by a selection committee on which the person served.

SECTION 3. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) Before a person joins a selection committee, the person shall receive an orientation from the Finance and Administration Cabinet. The orientation shall include, but not be limited to, an explanation of all statutes and administrative regulations pertaining to the person's service on the selection committee.

(2) For administrative purposes, a selection committee shall be attached to the Finance and Administration Cabinet.

(3) The Finance and Administrative Cabinet shall provide a selection committee with:

(a) Suitable quarters in Frankfort, Kentucky, in which to conduct its business;

(b) An executive secretary and any other staff support necessary for the expeditious conduct of a selection committee's duties and responsibilities; and

(c) Office supplies.

SECTION 4. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) Selection committee members who are not employees of state agencies or state universities shall receive a salary of one hundred dollars ($100) per day for those days authorized by the selection committee for selection committee activities.

(2) Selection committee members who are employees of state agencies or state universities shall not receive a per diem salary for their time spent on selection committee activities, and the state government salaries of these committee members shall not be reduced due to time spent away from other state government activities,

(3) All selection committee members shall be reimbursed for costs necessarily incurred in carrying out their duties. All reimbursements shall be authorized by the selection committee.

(4) The Finance and Administration Cabinet shall pay all costs generated under this section by a selection committee.

SECTION 5. A NEW SECTION OF KRS 56.800 TO 56.823 IS CREATED TO READ AS FOLLOWS:

(1) After the requirements of subsections (1) to (3) of Section 10 of this Act and Sections 1 to 4 of this Act have been met, this section and subsection (5) of Section 10 of this Act, not subsection (4) and subsections (6) to (18) of Section 10 of this Act, shall govern the rest of the leasing process for a new real property rental with an annual lease in excess of seventy-five thousand dollars ($75,000).

(2) The commissioner of the Department for Facilities Management, after consultation with the agency or agencies for whose use the space is sought, shall arrive at a request for proposals. The request for proposals shall include an evaluation sheet that states the relative weight of evaluation factors and that will be used by each voting member of the selection committee.

(3) In soliciting the interest of firms to lease real property, the department shall comply with the procedures, including newspaper advertisement procedures, established in subsection (5) of Section 10 of this Act.

(4) To respond to a newspaper advertisement, a firm, or its representative, shall respond on or before the time and date designated in the advertisement. Its response shall take the form of a one (1) page letter of interest, which shall provide its name and address.

(5) All written responses submitted on or before the time and date designated shall be opened at the same time, publicly read, and kept on file by the department. A firm that fails to meet the deadline shall be barred from the procurement process.

(6) The department shall mail a request for proposals to all firms that responded in time to the advertisement.

(7) After the requests for proposals have been mailed, but before written proposals are submitted, the commissioner, and the commissioner's staff, may hold any meetings, discussions, or negotiations that they deem appropriate, with the firms. If in the course of these communications, a person proposes terms and conditions of lease different from those contained in the state standard lease form that are determined in the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the request for proposals that was mailed out under subsection (6) of this section, each person to whom a request for proposals was mailed shall be advised by letter of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted under subsection (9) of this section. These letters shall be kept on file.

(8) After the request for proposals has been mailed, but before written proposals are submitted, the department shall inspect each space proposed to be leased to determine its suitability to the needs set forth in the request for proposals. The owner of the property, or the owner's representative, shall provide access to the property for the inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.

(9) (a) After the commissioner reviews the site evaluation forms, the commissioner shall send to each owner of property, or the owner's representative, a letter informing the person of what will have to be done to bring the property up to the needs set forth in the request for proposals. The commissioner's letter shall also invite each person to submit a written proposal, on a form created by the department, on or before the time and date set forth in the letter. A form shall be enclosed with each letter. The letter and the form shall be kept on file.

(b) A written proposal shall constitute a best and final offer.

(c) A firm that does not submit a written proposal, on a form created by the department, on or before the deadline shall be barred from the procurement process.

(d) Until materials pertaining to the lease process are provided to the Capital Projects and Bond Oversight Committee under subsection (2) of Section 7 of this Act, employees of the department and the members of the selection committee shall keep the written proposals confidential. However, the department, upon request, shall release the names of the firms that submitted the written proposals and the principals in the firms.

(10) The commissioner shall designate a department employee to determine which firms have filed, in a timely fashion, both a response to the newspaper advertisement and a written proposal on a form created by the department. The commissioner shall create a list of the firms that have done so and certify the list.

(11) The commissioner shall then review the proposals submitted by the firms on the certified list.

(a) If the commissioner determines that only one (1) potential lessor has submitted a responsive and responsible proposal, the commissioner, or the commissioner's designee, shall negotiate with the potential lessor based upon the evaluation factors set forth in the request for proposals. If the commissioner determines at the conclusion of negotiations that it is in the Commonwealth's best interest to award the lease to the lessor, the commissioner shall present the lease to the Capital Projects and Bond Oversight Committee for review, under subsection (2) of Section 7 of this Act, after the proposed lease is arrived at but before it is executed.

(b) If the commissioner determines that more than one (1) potential lessor has submitted a responsive and responsible proposal, the commissioner shall provide these proposals to the selection committee under subsection (12)(b)7. of this section.

(c) The commissioner shall put in writing his or her determination made pursuant to this subsection. The writing shall be kept on file.

(12) The department shall organize the selection committee's first meeting. At that meeting, each selection committee member shall sign a statement that the member shall keep confidential the request for proposals and selection committee discussions. Also, at that meeting, the selection committee shall:

(a) Elect from its members a chairman and a vice chairman who shall hold their positions for the duration of the selection process;

(b) Be provided with:

1. The request for proposals created under subsection (2) of this section;
2. The advertised notice of request for proposals created under subsection (3) of this section;
3. The one (1) page letters of interest submitted under subsection (4) of this section;
4. All letters mailed out under subsection (7) of this section;
5. Site evaluation forms completed under subsection (8) of this section;
6. The letters mailed out under subsection (9)(a) of this section;
7. Responsive and responsible proposals provided under subsection (11)(b) of this section;
8. The proposal evaluation sheets;
9. The certified list of firms created under subsection (10) of this section; and
10. A letter from the commissioner informing the committee that the selection process is governed by KRS 56.800 to 56.823 and Section 8 of this Act; and

(c) Discuss the future conduct of its affairs.

(13) The selection committee shall meet in executive session to:

(a) Evaluate the materials with which it has been provided. As part of the evaluation process, the selection committee may put written questions to the commissioner, who shall respond in writing;

(b) Select the three (3) most qualified firms and rank them in order of preference. The selection committee shall arrive at the selection by averaging the scores on the evaluation sheets. Each voting member shall fill out one (1) evaluation sheet; and

(c) Notify the department of the rankings.

(14) The department shall send a letter to each firm that responded to the request for proposals, informing the firm of:

(a) The three (3) finalists and their ranking; and

(b) The rest of the procedure that will be followed in the awarding of the lease.

(15) (a) Each member of the selection committee shall sign separate certificates, devised by the department, which shall provide the signatory with the option of certifying that to the best of the member's knowledge, he or she is either aware or unaware of circumstances that may constitute a violation of KRS 56.800 to 56.823 that has arisen in the procurement process. Any employee of the Auditor of Public Accounts, who was appointed to serve as a nonvoting member of the selection committee and who attended any committee proceeding, shall participate in the preparation of a report for filing with the Capital Projects and Bond Oversight Committee certifying that the applicable provisions of subsections (9)(d), (12), (13), and (14) of this section were or were not met. Before filing the report, the employee or employees who participated in its preparation shall sign it.

(b) The selection committee shall forward to the department:

1. The evaluation sheets;
2. The rankings of the written proposals; and

3. The certificates, but not the Auditor's report, described in paragraph (a) of this subsection.

(16) After the commissioner receives the materials described in subsection (15)(b), of this section, the commissioner shall sign a certificate identical to the certificates signed by the members of the selection committee. The commissioner shall choose one of the two (2) options on the certificate. Under subsection (2) of Section 7 of this Act, the commissioner shall provide to the Capital Projects and Bond Oversight Committee:

(a) The rankings of the three (3) finalists; and

(b) All of the certificates.

(17) The Auditor shall furnish the report referred to in subsection (15)(a) of this section to the Capital Projects and Bond Oversight Committee, under subsection (2) of Section 7 of this Act.

(18) The commissioner shall prepare a lease for the top-ranked firm. However, the commissioner shall not award the lease to the top-ranked firm until after the Capital Projects and Bond Oversight Committee has conducted its review under subsection (2) of Section 7 of this Act.

Section 6. KRS 56.814 is amended to read as follows:

(1) No officer or employee of any state agency shall engage in any act or make any representation or commitment to any person relative to the lease of any real property by the state without specific written authorization from and approval by the Finance and Administration Cabinet and neither the state nor the department shall be bound by the act, representation, or commitment unless so authorized and approved.

(2) No officer or employee of any state agency shall disclose to any person or firm who might reasonably be expected to submit a proposal, any[~~ approved~~] plans by the department for the lease of real property for which advertisement is required under KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190 prior to the advertisement. Discussions of[~~ approved~~] leasing plans may be held after advertisement with persons interested in submitting a proposal pertaining to the space requirements. ***However, after the rejection of all the proposals submitted in response to the advertisement, no discussions of plans shall be held until after new advertisements are placed.***

Section 7. KRS 56.823 is amended to read as follows:

(1) The Finance and Administration Cabinet shall report information on leases and lease modifications awarded pursuant to KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190 to the Capital Projects and Bond Oversight Committee as required by this section.

(2) Any lease awarded pursuant to ***subsections (1) to (3) of Section 10 of this Act and Sections 1 to 5 of this Act***[~~KRS 56.803~~] for which the annual rental cost will exceed ***seventy-five***[~~two hundred~~] thousand dollars ***($75,000)***[~~($200,000)~~] shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution. The report shall include:

(a) The name of the agency that will occupy the premises;

(b) The name of the lessor;

(c) The terms of the lease;

(d) The reason for the lease;

(e) ***1. When a selection committee has participated in the lease process:***

a. A copy of the commissioner's written determination made under subsection (11)(c) of Section 5 of this Act;

b. The rankings of the three (3) finalists as determined by the selection committee under subsection (15) of Section 5 of this Act;

c. The signed certificates referred to in subsections (15) and (16) of Section 5 of this Act; and

d. The report prepared by the employee or employees of the Auditor of Public Accounts under subsection (15)(a) of Section 5 of this Act.

2. When a selection committee has not participated in the lease process due to the requirements of subsection (11) of Section 5 of this Act, a copy of the commissioner's written determination made under subsection (11)(c) of Section 5 of this Act[~~A copy of the writing required by KRS 56.803(17)~~];

(f) A statement as to whether the Finance and Administration Cabinet complied with the requirements established in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190. If the cabinet has not complied with any requirement, the cabinet shall explain why; ***and***

(g) [~~An explanation of why the Finance and Administration Cabinet chose this lessor over his competition; and~~

~~(h)~~]A cost comparison between the cost per square foot of the leased space and the average cost per square foot of comparable space the state leases in the same county. If there are factors which make the comparison misleading, the cabinet shall inform the committee of these factors.

(3) Any lease that incorporates a lease-purchase pursuant to KRS 56.806(5) shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution.

(a) If a lease is awarded ***under Section 11 of this Act, or under subsections (1) to (3) of Section 11 of this Act and Sections 1 to 5 of this Act***[~~pursuant to KRS 56.803~~], the report shall include the:

1. Fair market value of the property as of the time the lessor and the Commonwealth entered into the lease;

2. Name and qualifications of each of the two (2) real estate appraisers who determined the fair market value;

3. Appraisal technique each appraiser employed; and

4. Information required by subsection (2) of this section.

(b) 1. Except as provided in subparagraph 2. of this paragraph, if a lease is awarded pursuant to KRS 56.805(2), the report shall include the:

a. Fair market value of the property at the time the lessor and the Commonwealth entered into the lease;

b. Name and qualifications of each of the two (2) real estate appraisers who determined the fair market value;

c. Appraisal technique each appraiser employed;

d. Information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section; and

e. Procedure the department followed to obtain the lease***; and***

f. An explanation of why the Finance and Administration Cabinet chose this lessor over the competition.

2. If the federal government is the lessor, the report shall include the substance of the lease-purchase.

(4) Any lease awarded pursuant to KRS 56.805(2) for which the annual rental cost will exceed ***seventy-five***[~~two hundred~~] thousand dollars ***($75,000)***[~~($200,000)~~] shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), ***and*** (g)[~~, and (h)~~] of subsection (2) of this section***,***[~~ and~~] the procedure the department followed to obtain the lease***, and an explanation of why the Finance and Administration Cabinet chose this lessor over the competition***. The report shall also include a copy of the writing required by KRS 56.805(2).

(5) Any lease awarded as the result of an emergency described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

(a) The information required by paragraphs (a), (b), (f), (g), and (h) of subsection (2) of this section;

(b) The terms of lease before and after the emergency; and

(c) The procedure the department followed after the emergency to obtain a lease.

(6) Any built-to-suit lease awarded pursuant to KRS 56.8169 shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section. The report shall also include:

(a) The written finding and Governor's approval required by KRS 56.8161;

(b) The selection committee's ranking of firms required by KRS 56.8169(15)(a);

(c) The written reason for requesting best-and-final offers, if best-and-final offers are requested, made pursuant to KRS 56.8169(16)(b);

(d) The selection committee's selection of the best best-and-final offer, if best-and-final offers are requested, made pursuant to KRS 56.8169(16)(d);

(e) The certificates signed pursuant to KRS 56.8171(2); and

(f) The report prepared by the employee of the Auditor of Public Accounts pursuant to KRS 56.8171(3).

(7) If the Finance and Administration Cabinet decides to exercise an option to purchase pursuant to KRS 56.806(4), the cabinet shall report to the Capital Projects and Bond Oversight Committee after the decision is reached but before the purchase occurs. The report shall include the:

(a) Fair market value of the property;

(b) Option price;

(c) Name and qualifications of each of the two (2) real estate appraisers who set the fair market value;

(d) Appraisal technique each appraiser employed; and

(e) Rent paid by the Commonwealth prior to the exercise of the option.

(8) (a) When, pursuant to KRS 56.806(5)(a), the Finance and Administration Cabinet attempts to complete a lease-purchase through lease payments totally amortizing the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease, the cabinet shall report to the Capital Projects and Bond Oversight Committee no more than ninety (90) days before the final lease payment. The report shall include the:

1. Fair market value of the property at the time the lessor and the Commonwealth entered into the lease;

2. Name and qualifications of each of the two (2) real estate appraisers who set the fair market value;

3. Appraisal technique each appraiser employed; and

4. Rent paid by the Commonwealth toward the purchase.

(b) When, pursuant to KRS 56.806(5)(b), the Finance and Administration Cabinet attempts to complete a lease-purchase, the cabinet shall report to the Capital Projects and Bond Oversight Committee no more than ninety (90) days before the final lease payment. The report shall include the terms of the lease purchase.

(9) When, pursuant to KRS 56.806(5), the Finance and Administration Cabinet decides to attempt to complete a lease-purchase prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease, the cabinet shall report to the Capital Projects and Bond Oversight Committee after the decision is reached but before the purchase occurs. The report shall state the information required by paragraph (a) or (b) of subsection (8) of this section as appropriate. The report shall also include the sum of money that must be paid in addition to rent paid, in order to complete the purchase.

(10) If the Finance and Administration Cabinet, pursuant to KRS 56.806(5), includes in a lease the lease-purchase of the leased property and thereafter becomes aware that a purchase will not be achieved, within thirty (30) days after the cabinet becomes aware, it shall notify the Capital Projects and Bond Oversight Committee of the circumstances preventing the purchase.

(11) (a) Except in the case of an emergency as provided in paragraph (b) of this subsection, any modification to an existing lease, made pursuant to KRS 56.813, that is less than fifty thousand dollars ($50,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution, and any modification to an existing lease, made pursuant to KRS 56.813, that is fifty thousand dollars ($50,000) or more shall be reported to the Capital Projects and Bond Oversight Committee before execution. In either case, the report shall consist of:

1. The terms of the lease before and after modification;

2. The reason for the modification;

3. The name of the lessor;

4. Any comments received from the public pursuant to KRS 56.813(4); and

5. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

(b) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

1. The terms of the lease before and after modification;

2. The name of the lessor;

3. Any comments received from the public pursuant to KRS 56.813(4); and

4. A statement that the Finance and Administration Cabinet complied with the requirements in KRS 56.805(3) and (4) and in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

Section 8. KRS 56.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 56.250 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each offense.

(2) Any person who commits a moving traffic violation of any regulation of the Finance and Administration Cabinet governing the operation and use of motor vehicles on the grounds of a state-owned building, shall upon conviction be fined not less than two dollars ($2) nor more than fifteen dollars ($15); provided, however, that if such person is found guilty of violating any provision of such regulation for which the mandatory or discretionary revocation of drivers' licenses is prescribed by KRS 186.560 and KRS 186.570, then the penalty for such violation shall be the same as that prescribed by the law applicable to such offense.

(3) (a) Any individual who willfully violates any of the provisions of KRS 56.8181 shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or by imprisonment in the penitentiary for not less than one (1) year nor more than five (5) years, or both.

(b) Any firm, corporation, or association which willfully violates any of the provisions of KRS 56.8181 shall be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000). The assessment of a fine under this paragraph shall not prevent the punishment of an individual under paragraph (a) of this subsection.

(4) Any individual***, including any employee or official of the Commonwealth of Kentucky,*** who willfully violates a provision of KRS 56.800 to 56.823, other than one found in KRS 56.8181, shall be punished by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the penitentiary for not more than one (1) year, or both.

(5) Any employee or official of the Commonwealth of Kentucky who shall willfully take, receive, or offer to take or receive, either directly or indirectly, anything of value, as an inducement, or intended inducement, in the awarding of a state lease pursuant to KRS 56.800 to 56.823, shall be guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000), or imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both.

(6) (a) Any individual willfully offering to make, pay, or give, either directly or indirectly, anything of value, as an inducement, or intended inducement, in the awarding of a lease pursuant to KRS 56.800 to 56.823, to any employee or official of the Commonwealth of Kentucky, shall be guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both.

(b) Any firm, corporation, or association willfully offering to make, pay, or give, either directly or indirectly, anything of value, as an inducement, or intended inducement, in the awarding of a lease, to any employee or official of the Commonwealth of Kentucky, shall be punished by a fine of not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000). The assessment of a fine under this paragraph shall not prevent the punishment of an individual under paragraph (a) of this subsection.

(7) (a) Any person who is convicted of or enters a guilty plea for a crime established in subsections (3) to (6) of this section shall be subject to the penalty established in paragraph (b) of this subsection in addition to the penalties established in those subsections.

(b) For a period of 5 (five) years from the date of a person's conviction or the entering of a person's guilty plea, the Commonwealth shall not rent real property from a firm that employs the person or in which the person has any ownership interest.

Section 9. KRS 48.111 is amended to read as follows:

(1) The Governor shall include in the executive branch budget recommendation and in the draft branch budget bill for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars ($200,000).

(2) The recommended program for leased space shall include:

(a) A summary description of each specific two hundred thousand dollar ($200,000) lease project recommended for funding during the biennium; and

(b) For each project:

1. The name of the agency for which space will be leased;

2. The purpose and justification for the lease;

3. Whether the lease contains a purchase option which will be exercised during the biennium pursuant to KRS 56.806(4) and the estimated purchase price;

4. a. Whether the lease contains a lease-purchase which will be completed during the biennium pursuant to KRS 56.806(5) prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease; and

b. The estimated sum of money that will have to be paid in addition to rent paid to complete the purchase;

5. The estimated cost of the lease; and

6. The recommended sources of funds.

(3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only the information specified in subparagraphs 1. and 2. of subsection (2)(b) of this section.

(4) Except as provided in subsection (5) of this section, no lease with an annual rental cost which will exceed two hundred thousand dollars ($200,000) shall be executed unless the lease has been identified and included in the branch budget bill. The branch budget bill for the executive branch shall authorize the expenditure by the budget unit that will occupy the premises.

(5) A lease with an annual rental cost exceeding two hundred thousand dollars ($200,000) may be authorized even though it is not specifically listed in the biennial budget report and branch budget bill, subject to the[~~following~~] conditions and procedures *established in subsections (6), (7), and (8) of this section.*

(6) When a lease described in subsection (5) of this section is awarded as the result of a consolidation of leases or an agency occupying substantially less space than it should, under the standards for space set by the Department for Facilities Management, the provisions of this subsection shall apply, except when the new lease is one described in KRS 56.805. A lease described in KRS 56.805 shall be subject to the provisions of subsection (8) of this section.

(a) Before advertisements for lease proposals are placed, the Finance and Administration Cabinet shall report to the Capital Projects and Bond Oversight Committee:

1. The name of the agency for which space will be leased;

2. The purpose and justification for the lease;

3. The estimated cost of the lease;

4. The source of funds; and

5. In the case of a lease for an agency occupying substantially less space than it should, a statement as to whether the new space will or will not exceed the space that should be allocated under the standards for space. In no event shall the new space exceed the space that should be allocated under the standards for new space.

(b) Within thirty (30) days after the report has been submitted to the Capital Projects and Bond Oversight Committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.

(c) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:

1. Revise the proposed lease authorization to comply with the objection of the committee;

2. Cancel the proposed lease authorization; or

3. Determine to proceed with the proposed lease authorization disapproved by the committee.

(d) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (c) of this subsection shall be communicated to the committee within thirty (30) days of the committee's disapproval.

(e) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened.

(f) If after committee review a lease is authorized, the lease shall be awarded under KRS 43.050, this section, KRS 48.190, and KRS 56.800 to 56.823, and the lease shall be reviewed under subsection (2) of Section 7 of this Act.

(7) (a) Prior to final authorization under paragraph (c) of this subsection of a lease described in subsection (5) of this section, the Finance and Administration Cabinet shall report to the Capital Projects and Bond Oversight Committee:

1. The name of the agency for which the space will be leased;

2. The purpose and justification for the lease;

3. The estimated cost of the lease;

4. The source of funds; and

5. Whether the requirements of paragraph (c) of this subsection have been met.

(b) After the report has been submitted to the Capital Projects and Bond Oversight Committee, the provisions of subsection (6)(b), (c), (d), (e), and (f) of this section shall apply.[~~:~~

~~(a) A lease is awarded as the result of the consolidation of leases in which case the provisions of KRS 56.803 and 56.823(2) or KRS 56.805(2) and 56.823(3) shall apply as appropriate; or~~

~~(b) A lease is awarded as the result of an agency occupying substantially less space than it should, under the standards for space set by the Department for Facilities Management, in which case the provisions of KRS 56.803 and 56.823(2) or KRS 56.805(2) and 56.823(3) shall apply, as appropriate. The space allocated under the new lease shall not exceed the space which should be allocated pursuant to the standards for space; or~~

~~(c) A lease is awarded as the result of an emergency in which case the provisions of KRS 56.805(3) and (4) and KRS 56.823(5) shall apply; or~~]

(c)[~~(d)~~]1. Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds; and

2. Money specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the lease. Money utilized shall not jeopardize any existing program and shall not require the use of current general funds specifically dedicated to existing programs[~~; and~~

~~3. The Finance and Administration Cabinet shall comply with the requirements of subsection (6) of this section~~].

(8) A lease described in KRS 56.805 shall be awarded under that section and subsection (4) or (5), as appropriate, of Section 7 of this Act.

[~~(6) (a) Prior to final authorization of a lease pursuant to paragraph (d) of subsection (5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:~~

~~1. The name of the agency for which space will be leased;~~

~~2. The purpose and justification for the lease;~~

~~3. The estimated cost of the lease;~~

~~4. The source of funds; and~~

~~5. Whether the requirements of paragraph (d) of subsection (5) of this section have been met.~~

~~(b) Within thirty (30) days after the report has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.~~

~~(c) If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:~~

~~1. Revise the proposed lease authorization to comply with the objection of the committee; or~~

~~2. Cancel the proposed lease authorization; or~~

~~3. Determine to proceed with the proposed lease authorization disapproved by the committee.~~

~~(d) The decision made by the secretary of the Finance and Administration Cabinet under paragraph (c) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.~~

~~(e) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened.~~

~~(f) If after committee review a lease is authorized, the lease shall be awarded pursuant to the provisions of KRS 56.800 to 56.823 and this section, KRS 43.050, and KRS 48.190 and shall be subsequently reviewed pursuant to the appropriate subsection of KRS 56.823.~~]

Section 10. KRS 56.803 is amended to read as follows:

(1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at KRS 56.805(3), an agency shall submit its space request in writing to the department at least ninety (90) calendar days before the space requested will be required by the agency. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to KRS 56.805(3) as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, he shall acquire the space required by lease as provided by KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.

(2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that

there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency by letter. A copy of the letter shall be kept on file.

(3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 58.823 and KRS 43.050, 48.111, and 48.190.

(4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection (15) of this section or pursuant to paragraph (b) of subsection (16) of this section. The general requirement specifications shall be kept on file.

(5) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall comply with procedures established in this subsection.

(a) The department shall place newspaper advertisements. Each advertisement shall contain general information concerning the agency requirements for the space sought to reasonably inform persons having property to let within the county of the type of space wanted, the general location of the property, and the number of square feet needed, and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be noted in the advertisement.

(b) If a daily newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in that newspaper.

(c) If there is not a daily newspaper published, and of general circulation, in the county where the space is sought, an advertisement shall be published one (1) time in a weekly newspaper published, and of general circulation, in the county where the space is sought and two (2) times in a daily newspaper not published, but of general circulation, in the county where space is sought.

(d) If neither a daily newspaper nor a weekly newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in a daily newspaper not published, but of general circulation, in the county where the space is sought, and a copy of the advertisement shall be posted in a conspicuous place in the county courthouse.

(e) If the Commonwealth intends to lease space in any county when the estimated annual rental charge will exceed ***seventy-five***[~~one hundred~~] thousand dollars ***($75,000)***[~~($100,000)~~], the requirements established in paragraphs (a), (b), (c), and (d) of this subsection shall be followed. In addition, advertisements shall be published two (2) times in at least two (2) daily newspapers having broad circulation within the Commonwealth, to be designated by the secretary of the Finance and Administration Cabinet.

(f) When an advertisement is published in a daily newspaper, the advertisement shall appear on any consecutive Monday and Tuesday.

(g) The Department for Facilities Management may use any means available to notify landlords that advertisements have been placed.

(6) To respond to a newspaper advertisement, a property owner, or his representative, shall respond in writing on or before the time and date designated in the advertisement and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the advertisement.

(7) All written responses submitted on or before the time and date designated shall be opened at the same time, publicly read, and kept on file by the department.

(8) Within five (5) days of the opening of written responses submitted on or before the time and date designated, the department shall mail general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be mailed to each person.

(9) After the general requirement specifications have been mailed, except as provided in paragraph (a) of subsection (13) of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the advertisement placed pursuant to subsection (5) of this section, all other persons who submitted written responses on or before the time and date designated shall be advised by letter of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection (12) of this section. A copy of each of these letters shall be kept on file.

(10) After the general requirement specifications have been mailed, the department shall inspect each space proposed to be

leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or his representative, shall provide access to the property for such inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.

(11) After the commissioner has reviewed the completed site evaluation forms, he shall send to each owner of property, or his representative, a letter informing the person of what would have to be done to bring the property up to general and specific requirement specifications. The commissioner's letter shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be enclosed with each letter. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated in the letter. A copy of each letter shall be kept on file.

(12) All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.

(13) Except pursuant to paragraph (b) of subsection (15) of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:

(a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;

(b) Shall log in all contacts between department employees and any person with an interest in the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record.

(14) (a) The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the advertised requirements and general and specific requirement specifications.

(b) The commissioner shall give preference to properties in areas which have received, within the previous five (5) year period, state community development funds for revitalization if properties are offered at a competitive rate and meet the provisions of paragraph (a) of this subsection.

(15) The commissioner, relying exclusively on his assessment made pursuant to subsection (14) of this section, shall:

(a) Choose the best proposal in the interest of the Commonwealth;

(b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or

(c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section and may, at his discretion, initiate the lease process again.

(16) (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection (15) of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.

(b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.

(17) The commissioner shall put in writing the justifications for his decisions made pursuant to subsections (15) and (16) of this section. This writing shall be kept on file.

(18) The department shall send to each person who submitted a written response on or before the time and date designated in the advertisement pursuant to subsection (6) of this section, but who was not awarded the lease, a letter stating the selected property to be leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to KRS 56.823(2), will review the awarding of a lease, each letter shall state that fact. A copy of each of these letters shall be kept on file.

The Committee Substitute to **HB 704** is as follows:

AN ACT relating to lease of real property for state use.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 48.111 is amended to read as follows:

(1) The Governor shall include in the executive branch budget recommendation and in the draft branch budget bill for the executive branch submitted to each regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars ($200,000).

(2) The recommended program for leased space shall include:

(a) A summary description of each specific two hundred thousand dollar ($200,000) lease project recommended for funding during the biennium; and

(b) For each project:

1. The name of the agency for which space will be leased;

2. The purpose and justification for the lease;

3. Whether the lease contains a purchase option which will be exercised during the biennium pursuant to KRS 56.806(4) and the estimated purchase price;

4. a. Whether the lease contains a lease-purchase which will be completed during the biennium pursuant to KRS 56.806(5) prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease; and

b. The estimated sum of money that will have to be paid in addition to rent paid to complete the purchase;

5. The estimated cost of the lease; and

6. The recommended sources of funds.

(3) All information required by subsection (2) of this section shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only the information specified in subparagraphs 1. and 2. of subsection (2)(b) of this section.

(4) Except as provided in subsection (5) of this section, no lease with an annual rental cost which will exceed two hundred thousand dollars ($200,000) shall be executed unless the lease has been identified and included in the branch budget bill. The branch budget bill for the executive branch shall authorize the expenditure by the budget unit that will occupy the premises.

(5) A lease with an annual rental cost exceeding two hundred thousand dollars ($200,000) may be authorized even though it is not specifically listed in the biennial budget report and branch budget bill, subject to the following conditions and procedures:

(a) A lease is awarded as the result of the consolidation of leases in which case***, in addition to subsection (6) of this section,*** the provisions of KRS 56.803 and 56.823(2) or ***of*** KRS 56.805(2) and 56.823(3) shall apply***,*** as appropriate; or

(b) A lease is awarded as the result of an agency occupying substantially less space than it should, under the standards for space set by the Department for Facilities Management, in which case***, in addition to subsection (6) of this section,*** the provisions of KRS 56.803 and 56.823(2) or ***of*** KRS 56.805(2) and 56.823(3) shall apply, as appropriate. The space allocated under the new lease shall not exceed the space which should be allocated pursuant to the standards for space; or

(c) A lease is awarded as the result of an emergency in which case the provisions of KRS 56.805(3) and (4) and KRS 56.823(5) shall apply; or

(d) 1. Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds; and

2. Money specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallotted for expenditure on the lease. Money utilized shall not jeopardize any existing program and shall not require the use of current general funds specifically dedicated to existing programs; and

3. The Finance and Administration Cabinet shall comply with the requirements of subsection (6) of this section.

(6) (a) ***No later than five (5) business days after an advertisement for lease proposals pursuant to paragraph (a) or (b) of subsection (5) of this section, the cabinet shall provide the Capital Projects and Bond Oversight Committee with a copy of the advertisement and shall state in writing to the committee that the copy is being provided in compliance with this paragraph.***

(b) Prior to final authorization of a lease pursuant to paragraph (d) of subsection (5) of this section, the cabinet shall report to the Capital Projects and Bond Oversight Committee:

1. The name of the agency for which space will be leased;
2. The purpose and justification for the lease;
3. The estimated cost of the lease;
4. The source of funds; and
5. Whether the requirements of paragraph (d) of subsection (5) of this section have been met.

(c)[~~(b)~~]Within thirty (30) days after the report ***required in paragraph (b) of this subsection*** has been submitted to the committee, the committee shall conduct its review and decide whether to approve or disapprove the proposed lease authorization. The Legislative Research Commission shall promptly transmit the committee's findings and determinations to the Finance and Administration Cabinet.

(d)[~~(c)~~]If the committee disapproves a proposed lease authorization, the secretary of the Finance and Administration Cabinet shall:

1. Revise the proposed lease authorization to comply with the objection of the committee; or
2. Cancel the proposed lease authorization; or
3. Determine to proceed with the proposed lease authorization disapproved by the committee.

(e)[~~(d)~~]The decision made by the secretary of the Finance and Administration Cabinet under paragraph ***(d)***[~~(c)~~] of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.

(f)[~~(e)~~] The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened.

(g)[~~(f)~~] If after committee review a lease is authorized, the lease shall be awarded pursuant to the provisions of KRS 56.800 to 56.823 and this section, KRS 43.050, and KRS 48.190 and shall be subsequently reviewed pursuant to the appropriate subsection of KRS 56.823.

Section 2. KRS 56.803 is amended to read as follows:

(1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at KRS 56.805(3), an agency shall submit its space request in writing to the department at least ninety (90) calendar days before the space requested will be required by the agency. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to KRS 56.805(3) as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, he shall acquire the space required by lease as provided by KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.

(2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency by letter. A copy of the letter shall be kept on file.

(3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.

(4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection (15) of this section or pursuant to paragraph (b) of subsection (16) of this section. The general requirement specifications shall be kept on file.

(5) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall comply with procedures established in this subsection.

(a) The department shall place newspaper advertisements. Each advertisement shall contain general information concerning the agency requirements for the space sought to reasonably inform persons having property to let within the county of the type of space wanted, the general location of the property, and the number of square feet needed, and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be noted in the advertisement.

(b) If a daily newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in that newspaper.

(c) If there is not a daily newspaper published, and of general circulation, in the county where the space is sought, an advertisement shall be published one (1) time in a weekly newspaper published, and of general circulation, in the county where the space is sought and two (2) times in a daily newspaper not published, but of general circulation, in the county where space is sought.

(d) If neither a daily newspaper nor a weekly newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in a daily newspaper not published, but of general circulation, in the county where the space is sought, and a copy of the advertisement shall be posted in a conspicuous place in the county courthouse.

(e) If the Commonwealth intends to lease space in any county when the estimated annual rental charge will exceed one hundred thousand dollars ($100,000), the requirements established in paragraphs (a), (b), (c), and (d) of this subsection shall be followed. In addition, advertisements shall be published two (2) times in at least two (2) daily newspapers having broad circulation within the Commonwealth, to be designated by the secretary of the Finance and Administration Cabinet.

(f) When an advertisement is published in a daily newspaper, the advertisement shall appear on any consecutive Monday and Tuesday.

(g) The Department for Facilities Management may use any means available to notify landlords that advertisements have been placed.

(6) To respond to a newspaper advertisement, a property owner, or his representative, shall respond in writing on or before the time and date designated in the advertisement and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the advertisement.

(7) All written responses submitted on or before the time and date designated shall be opened at the same time, publicly read, and kept on file by the department.

(8) Within five (5) days of the opening of written responses submitted on or before the time and date designated, the department shall mail general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be mailed to each person.

(9) After the general requirement specifications have been mailed, except as provided in paragraph (a) of subsection (13) of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the advertisement placed pursuant to subsection (5) of this section, all other persons who submitted written responses on or before the time and date designated shall be advised by letter of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection (12) of this section. A copy of each of these letters shall be kept on file.

(10) After the general requirement specifications have been mailed, the department shall inspect each space proposed to be leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or his representative, shall provide access to the property for such inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.

(11) After the commissioner has reviewed the completed site evaluation forms, he shall send to each owner of property, or his representative, a letter informing the person of what would have to be done to bring the property up to general and specific requirement specifications. The commissioner's letter shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be enclosed with each letter. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated in the letter. A copy of each letter shall be kept on file.

(12) All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.

(13) Except pursuant to paragraph (b) of subsection (15) of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:

(a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;

(b) Shall log in all contacts between department employees and any person with an interest in the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record.

(14) (a) The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the advertised requirements and general and specific requirement specifications.

(b) The commissioner shall give preference to properties in areas which have received, within the previous five (5) year period, state community development funds for revitalization if properties are offered at a competitive rate and meet the provisions of paragraph (a) of this subsection.

(15) The commissioner, relying exclusively on his assessment made pursuant to subsection (14) of this section, shall:

(a) Choose the best proposal in the interest of the Commonwealth;

(b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or

(c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section and may, at his discretion, initiate the lease process again.

(16) (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection (15) of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.

(b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.

(17) The commissioner shall put in writing the justifications for his decisions made pursuant to subsections (15) and (16) of this section. This writing shall be kept on file.

(18) ***The commissioner, all department employees under the commissioner's supervision who performed a site evaluation or negotiated a lease agreement under this section, and the head of the agency that will occupy the leased space shall sign separate certificates, devised by the commissioner, which shall provide the signatory with the option of certifying that, to the best of his knowledge, he is either aware or unaware of circumstances which may constitute a violation of KRS 56.800 to 56.823. The Department for Facilities Management shall keep the certificates on file.***

(19) The department shall send to each person who submitted a written response on or before the time and date designated in the advertisement pursuant to subsection (6) of this section, but who was not awarded the lease, a letter stating the selected property to be leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to KRS 56.823(2), will review the awarding of a lease, each letter shall state that fact. A copy of each of these letters shall be kept on file.

Section 3. KRS 56.814 is amended to read as follows:

(1) No officer or employee of any state agency shall engage in any act or make any representation or commitment to any person relative to the lease of any real property by the state without specific written authorization from and approval by the Finance and Administration Cabinet and neither the state nor the department shall be bound by the act, representation, or commitment unless so authorized and approved.

(2) ***(a)*** No officer or employee of any state agency shall disclose to any person or firm who might reasonably be expected to submit a proposal, any approved plans by the department for the lease of real property for which advertisement is required under KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190 prior to the advertisement. Discussions of approved leasing plans may be held after advertisement with persons interested in submitting a proposal pertaining to the space requirements.

(b) If all of the proposals, submitted in response to the advertisement referred to in paragraph (a) of this subsection, are rejected, then the requirements of paragraph (a) shall govern disclosure before, and discussions after, new advertisements are placed.

Section 4. KRS 56.823 is amended to read as follows:

(1) The Finance and Administration Cabinet shall report information on leases and lease modifications awarded pursuant to KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190 to the Capital Projects and Bond Oversight Committee as required by this section.

(2) Any lease awarded pursuant to KRS 56.803***, including all lease renewals except automatic renewals permitted under KRS 56.806(1),*** for which the annual rental cost will exceed ***one***[~~two~~] hundred thousand dollars ***($100,000)***[~~($200,000)~~] shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution. The report shall include:

- (a) The name of the agency that will occupy the premises;
- (b) The name of the lessor;
- (c) The terms of the lease;
- (d) The reason for the lease;
- (e) A copy of the writing required by KRS 56.803(17);
- (f) A statement as to whether the Finance and Administration Cabinet complied with the requirements established in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190. If the cabinet has not complied with any requirement, the cabinet shall explain why;
- (g) An explanation of why the Finance and Administration Cabinet chose this lessor over his competition; and
- (h) A cost comparison between the cost per square foot of the leased space and the average cost per square foot of comparable space the state leases in the same county. If there are factors which make the comparison misleading, the cabinet shall inform the committee of these factors.

(3) Any lease that incorporates a lease-purchase pursuant to KRS 56.806(5) shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution.

- (a) If a lease is awarded pursuant to KRS 56.803, the report shall include the:
  - 1. Fair market value of the property as of the time the lessor and the Commonwealth entered into the lease;
  - 2. Name and qualifications of each of the two (2) real estate appraisers who determined the fair market value;
  - 3. Appraisal technique each appraiser employed; and
  - 4. Information required by subsection (2) of this section.
- (b) 1. Except as provided in subparagraph 2. of this paragraph, if a lease is awarded pursuant to KRS 56.805(2), the report shall include the:
    - a. Fair market value of the property at the time the lessor and the Commonwealth entered into the lease;
    - b. Name and qualifications of each of the two (2) real estate appraisers who determined the fair market value;
    - c. Appraisal technique each appraiser employed;
    - d. Information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section; and
    - e. Procedure the department followed to obtain the lease.
  - 2. If the federal government is the lessor, the report shall include the substance of the lease-purchase.

(4) Any lease awarded pursuant to KRS 56.805(2)***, including all lease renewals except automatic renewals permitted under KRS 56.806(1),*** for which the annual rental cost will exceed ***one***[~~two~~] hundred thousand dollars ***($100,000)***[~~($200,000)~~] shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section and the procedure the department followed to obtain the lease. The report shall also include a copy of the writing required by KRS 56.805(2).

(5) Any lease awarded as the result of an emergency described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

- (a) The information required by paragraphs (a), (b), (f), (g), and (h) of subsection (2) of this section;
- (b) The terms of lease before and after the emergency; and
- (c) The procedure the department followed after the emergency to obtain a lease.

(6) Any built-to-suit lease awarded pursuant to KRS 56.8169 shall be reported to the Capital Projects and Bond Oversight Committee after a proposed lease is arrived at but before execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section. The report shall also include:

- (a) The written finding and Governor's approval required by KRS 56.8161;

(b) The selection committee's ranking of firms required by KRS 56.8169(15)(a);

(c) The written reason for requesting best-and-final offers, if best-and-final offers are requested, made pursuant to KRS 56.8169(16)(b);

(d) The selection committee's selection of the best best-and-final offer, if best-and-final offers are requested, made pursuant to KRS 56.8169(16)(d);

(e) The certificates signed pursuant to KRS 56.8171(2); and

(f) The report prepared by the employee of the Auditor of Public Accounts pursuant to KRS 56.8171(3).

(7) If the Finance and Administration Cabinet decides to exercise an option to purchase pursuant to KRS 56.806(4), the cabinet shall report to the Capital Projects and Bond Oversight Committee after the decision is reached but before the purchase occurs. The report shall include the:

(a) Fair market value of the property;

(b) Option price;

(c) Name and qualifications of each of the two (2) real estate appraisers who set the fair market value;

(d) Appraisal technique each appraiser employed; and

(e) Rent paid by the Commonwealth prior to the exercise of the option.

(8) (a) When, pursuant to KRS 56.806(5)(a), the Finance and Administration Cabinet attempts to complete a lease-purchase through lease payments totally amortizing the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease, the cabinet shall report to the Capital Projects and Bond Oversight Committee no more than ninety (90) days before the final lease payment. The report shall include the:

1. Fair market value of the property at the time the lessor and the Commonwealth entered into the lease;

2. Name and qualifications of each of the two (2) real estate appraisers who set the fair market value;

3. Appraisal technique each appraiser employed; and

4. Rent paid by the Commonwealth toward the purchase.

(b) When, pursuant to KRS 56.806(5)(b), the Finance and Administration Cabinet attempts to complete a lease-purchase, the cabinet shall report to the Capital Projects and Bond Oversight Committee no more than ninety (90) days before the final lease payment. The report shall include the terms of the lease purchase.

(9) When, pursuant to KRS 56.806(5), the Finance and Administration Cabinet decides to attempt to complete a lease-purchase prior to the total amortization, through lease payments, of the fair market value of the leased property as of the time the lessor and the Commonwealth entered into the lease, the cabinet shall report to the Capital Projects and Bond Oversight Committee after the decision is reached but before the purchase occurs. The report shall state the information required by paragraph (a) or (b) of subsection (8) of this section as appropriate. The report shall also include the sum of money that must be paid in addition to rent paid, in order to complete the purchase.

(10) If the Finance and Administration Cabinet, pursuant to KRS 56.806(5), includes in a lease the lease-purchase of the leased property and thereafter becomes aware that a purchase will not be achieved, within thirty (30) days after the cabinet becomes aware, it shall notify the Capital Projects and Bond Oversight Committee of the circumstances preventing the purchase.

(11) (a) Except in the case of an emergency as provided in paragraph (b) of this subsection, any modification to an existing lease, made pursuant to KRS 56.813, that is less than fifty thousand dollars ($50,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution, and any modification to an existing lease, made pursuant to KRS 56.813, that is fifty thousand dollars ($50,000) or more shall be reported to the Capital Projects and Bond Oversight Committee before execution. In either case, the report shall consist of:

1. The terms of the lease before and after modification;

2. The reason for the modification;

3. The name of the lessor;

4. Any comments received from the public pursuant to KRS 56.813(4); and

5. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

(b) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

1. The terms of the lease before and after modification;

2. The name of the lessor;
3. Any comments received from the public pursuant to KRS 56.813(4); and
4. A statement that the Finance and Administration Cabinet complied with the requirements in KRS 56.805(3) and (4) and in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

Section 5. KRS 56.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 56.250 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) for each offense.

(2) Any person who commits a moving traffic violation of any regulation of the Finance and Administration Cabinet governing the operation and use of motor vehicles on the grounds of a state-owned building, shall upon conviction be fined not less than two dollars ($2) nor more than fifteen dollars ($15); provided, however, that if such person is found guilty of violating any provision of such regulation for which the mandatory or discretionary revocation of drivers' licenses is prescribed by KRS 186.560 and KRS 186.570, then the penalty for such violation shall be the same as that prescribed by the law applicable to such offense.

(3) (a) Any individual who willfully violates any of the provisions of KRS 56.8181 shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or by imprisonment in the penitentiary for not less than one (1) year nor more than five (5) years, or both.

(b) Any firm, corporation, or association which willfully violates any of the provisions of KRS 56.8181 shall be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000). The assessment of a fine under this paragraph shall not prevent the punishment of an individual under paragraph (a) of this subsection.

(4) Any individual***, including any employee or official of the Commonwealth of Kentucky,*** who willfully violates a provision of KRS 56.800 to 56.823, other than one found in KRS 56.8181, shall be punished by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the penitentiary for not more than one (1) year, or both.

(5) Any employee or official of the Commonwealth of Kentucky who shall willfully take, receive, or offer to take or receive, either directly or indirectly, anything of value, as an inducement, or intended inducement, in the awarding of a state lease pursuant to KRS 56.800 to 56.823, shall be guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000), or imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both.

(6) (a) Any individual willfully offering to make, pay, or give, either directly or indirectly, anything of value, as an inducement, or intended inducement, in the awarding of a lease pursuant to KRS 56.800 to 56.823, to any employee or official of the Commonwealth of Kentucky, shall be guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years, or both.

(b) Any firm, corporation, or association willfully offering to make, pay, or give, either directly or indirectly, anything of value, as an inducement, or intended inducement, in the awarding of a lease, to any employee or official of the Commonwealth of Kentucky, shall be punished by a fine of not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000). The assessment of a fine under this paragraph shall not prevent the punishment of an individual under paragraph (a) of this subsection.

(7) (a) Any person who is convicted of or enters a guilty plea for a crime established in subsections (3) to (6) of this section shall be subject to the penalty established in paragraph (b) of this subsection in addition to the penalties established in those subsections.

(b) For a period of five (5) years from the date of a person's conviction or the entering of a person's guilty plea, the Commonwealth shall not rent real property from a firm that employs the person or in which the person has any ownership interest.

Section 6. KRS 56.805 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 56.803(4) to ***(19)***[~~(18)~~], this section shall govern the leasing of space in a building owned by the federal government, by a political subdivision or municipal corporation of the Commonwealth, or if the space is required as the result of a bona fide emergency.

(2) When the commissioner of the Department for Facilities Management determines that it is in the Commonwealth's best interest for him to negotiate a lease in a building owned by the federal government or by a political subdivision or municipal corporation of the Commonwealth, he shall do so. The commissioner shall state in writing his justifications for the determination, and the writing shall be kept on file.

(3) A bona fide emergency shall be deemed to exist only in cases where the head of an agency already occupying leased premises certifies in writing to the Secretary of the Finance and Administration Cabinet that:

(a) The leased premises have been damaged or destroyed by fire, windstorm, or other casualty; or

(b) The leased premises are found to be in violation of regulations of the Kentucky Occupational Safety and Health Review Commission, and the violations cannot be remedied within thirty (30) days after the issuance of a citation to the lessor of the premises; or

(c) The leased premises are found to be unsafe or unfit for occupancy due to any condition constituting a violation or infraction of fire or health laws and regulations and cannot be made safe within a reasonable time; or

(d) 1. The necessity for leased premises arises from the enactment or adoption of federal legislation or regulations or state legislation, the effective date of which mandates commencement of programs to be housed in leased space before there is time for space to be acquired by advertisement; and

2. The agency's functions will be impaired or have to be discontinued unless other quarters to house the agency's operations are immediately located and occupied by the agency; or

(e) An emergency, other than one described in paragraph (a), (b), (c), or (d) of this subsection, exists, and the Governor has given his express written authorization of an emergency lease. The certificate shall state the details of the emergency, and the head of the agency shall include the Governor's written authorization along with the certificate sent to the Secretary of Finance and Administration Cabinet.

(4) Upon receipt by the Finance and Administration Cabinet of the certificate, written pursuant to paragraph (a), (b), (c), or (d) of subsection (3) of this section, or the certificate and the Governor's authorization written pursuant to paragraph (e) of subsection (3) of this section, the Department for Facilities Management shall take the action to locate and negotiate for the lease of space meeting the certifying agency's reasonable needs. As appropriate, the department shall keep the certificate or the certificate and the Governor's written authorization on file.

HB 784, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.576 is amended to read as follows:

(1) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the system, setting forth at what time the retirement is to become effective, if the effective date shall be after his last day of service and subsequent to the filing of the notice at the retirement office.

(2) The member shall have the right to elect to have his retirement allowance payable under subsection (3), (4), or (6) of this section or any one (1) of the plans set forth in KRS 61.635.

(3) Effective August 1, 1990, a member of the Kentucky State Police Retirement System may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the County Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the Kentucky Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and forty-nine hundredths percent (2.49%) of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(4) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (3) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years. The provisions of KRS 61.702 notwithstanding, the member who retired on June 17, 1978, or thereafter, and his spouse and dependents or beneficiary shall continue to receive the insurance benefits to which they are entitled pursuant to KRS 61.702 after the expiration of ten (10) years. Effective with any insurance contract procured, or self-insurance plan instituted, after July 15, 1990, a member who retired prior to June 17, 1978, and his spouse and dependents or beneficiary shall receive insurance benefits pursuant to KRS 61.702 upon payment by the member or beneficiary of the entire cost of the required insurance premium. ***An employee hired on or after August 1, 1998, who elects at the time of retirement to receive payments under this subsection shall not be entitled to medical insurance except as provided in Section 3 of this Act.***

(5) Notwithstanding any other provisions of this section, upon written notification to the system, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

(6) In lieu of any other benefits due under KRS 16.505 to 16.652, a member who has attained age fifty-five (55) and who has attained at least one (1) month of service credit but no more than fifty-nine (59) months of service credit may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement

allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

Section 2. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, delayed contribution and installment payments, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) *Hospital and medical insurance plan for employees hired after August 1, 1998, as provided by Section 3 of this Act.*

(25) Death benefit, as provided by KRS 61.705;

(26)[~~(25)~~] Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615;

(27)[~~(26)~~] Service credit, Armed Forces, as provided by KRS 61.555;

(28)[~~(27)~~] Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569; and

(29)[~~(28)~~] Statement to be made under oath, good faith reliance, as provided for in KRS 61.699.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other statute to the contrary, for all employees participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who are hired on or after August 1, 1998, the board of trustees of the Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employees' group for hospital and medical insurance.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and

medical insurance as provided under this Section. The employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;
3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems; or
4. Partly from subparagraphs 1., 2., or 3. of this paragraph, except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient.

(b) The monthly contribution for hospital and medical insurance shall be one hundred dollars ($100) for retired members age fifty-five (55) to fifty-nine (59), one hundred twenty-five dollars ($125) for retired members age sixty (60) to sixty-four (64), and one hundred fifty dollars ($150) for retired members age sixty-five (65) and older. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

(c) 1. The monthly contribution from the Kentucky Retirement Systems insurance fund as determined in paragraph (b) of this subsection shall be paid in full from the insurance fund for all recipients, other than a beneficiary or a dependent child receiving benefits, of a retirement allowance from any of the three (3) retirement systems administered by the Kentucky Retirement Systems, where the recipient is a retired former member of one (1) or more of the three (3) retirement systems and had two hundred and forty (240) months or more of service upon retirement.

2. If the recipient has less than two hundred forty (240) months of service but has at least one hundred eighty (180) months or service, seventy-five percent (75%) of the monthly contribution shall be paid from the insurance fund provided the recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method.
3. If the recipient has less than one hundred eighty (180) months of service but has at least one hundred twenty (120) months of service, fifty percent (50%) of the monthly contribution shall be paid from the insurance fund provided the recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method.
4. If the recipient has less than one hundred twenty (120) months of service but has at least forty-eight (48) months of service, twenty-five percent (25%) of the monthly contribution shall be paid from the insurance fund provided the recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method.
5. As used in this section, "months of service" means the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, administered by the Kentucky Retirement Systems, except service added to determine disability benefits shall not be counted as "months of service."

(d) For a member electing insurance coverage through the Kentucky Retirement Systems, months of service shall include, in addition to service as described in paragraph (c) of this subsection, service credit in one (1) of the other state-administered retirement plans.

1. The Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (c) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards

of trustees.

2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one of the state-administered retirement plans.

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) Group rates under the hospital and medical insurance plan shall be made available to the retired member under age fifty-five (55) or beneficiary who is a recipient and to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient or beneficiary, if the premium is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for Federal Social Security disability benefits.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax that might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(6) The benefits of this section shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, or 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this section if in its judgment the welfare of the Commonwealth so demands.

Section 4. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;
(2) Statement of member and employer, as provided for by KRS 61.540;
(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
(4) Service credit determination, as provided for by KRS 61.545;
(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
(6) Service credit, Armed Forces, as provided for by KRS 61.555;
(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;
(8) Retirement allowance increases as provided for by KRS 61.691;
(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
(10) Disability retirement, conditions, as provided for by KRS 61.600;
(11) Disability retirement, allowance, as provided for by KRS 61.605;
(12) Medical examination after disability retirement, as provided for by KRS 61.610;
(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
(14) Determination of retirement allowance, as provided for by KRS 61.595;
(15) Refund of contributions, conditions, as provided for by KRS 61.625;
(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
(17) Optional retirement plans, as provided for by KRS 61.635;
(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;
(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;
(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
(22) Medical examiners and hearing procedures, as provided for by KRS 61.665;
(23) Actuarial bases, as provided for by KRS 61.670;
(24) Employer's administrative duties, as provided for by KRS 61.675;
(25) Correction of errors in records, as provided for by KRS 61.685;
(26) Exemptions of retirement allowances, as provided for by KRS 61.690;
(27) Credit for service prior to membership date, as provided for by KRS 61.526;
(28) Creditable compensation of fee officers, as provided for by KRS 61.541;
(29) Transfer of dormant accounts, as provided for by KRS 61.626;
(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by KRS 61.565;

(35) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;

(36) Hospital and medical insurance plan, as provided by KRS 61.702;

(37) ***Hospital and medical insurance plan for employees hired after August 1, 1998, as provided by Section 3 of this Act;***

(38) Death benefit, as provided by KRS 61.705;

(39)[~~(38)~~] Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(40)[~~(39)~~] Statement to be made under oath, good faith reliance, as provided for in KRS 61.699; and

(41)[~~(40)~~] Disability procedure for members in hazardous positions as provided for in KRS 16.582.

HB 801, AN ACT relating to establishing American Indian Day in Kentucky.

WHEREAS, several states across the country have established American Indian Day to celebrate a strong, proud people with a deep faith in nature and its awesome power and an indomitable spirit that has allowed them to always persevere; and

WHEREAS, American Indians are so important to our state's history that they were even responsible for naming this "land of plenty", Kentucke; and

WHEREAS, even today, Kentucky is home to more than 6,000 American Indians; and

WHEREAS, American Indians have played a vital role in the life of our Commonwealth, and their many contributions have enhanced the freedom, prosperity, and greatness of Kentucky; and

WHEREAS, the Commonwealth of Kentucky is committed to remembering these contributions and to honoring the unique heritage of our state's first inhabitants; and

WHEREAS, as we enter the next century, the Commonwealth of Kentucky has an exciting opportunity to open a new era of understanding, cooperation, and respect among all Kentuckians; and

WHEREAS, a special observance would reflect our Commonwealth's commitment to the American Indians as an integral part of the social, political, and economic fabric of the state of Kentucky; and

WHEREAS, a special observance would embody the fundamental belief of Kentuckians that people of widely varied and diverse cultural backgrounds must stand united together to make this great Commonwealth strong;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

(1) The second Monday in September of each year shall be observed in Kentucky as "American Indian Day" and on this day schools, clubs, and civic and religious organizations are encouraged to recognize the contributions of American Indians with suitable ceremony and fellowship designed to promote greater understanding and brotherhood between American Indians and the non-Indian people of the Commonwealth of Kentucky.

(2) The Governor shall, prior to the second Monday in September of each year, issue a proclamation inviting and urging the people of the Commonwealth to observe American Indian Day with suitable ceremony and fellowship.

(3) The Kentucky Department of Education and the Commission on Human Rights shall, within the limits of funds available for this purpose, make information available to all people of this Commonwealth regarding American Indian Day and the observance thereof.

The Committee Substitute to **HB 801** is as follows:

AN ACT relating to establishing American Indian Day in Kentucky.

WHEREAS, several states across the country have established a special observance to celebrate a strong, proud people with a deep faith in nature and its awesome power and an indomitable spirit that has allowed them to always persevere; and

WHEREAS, Native American Indians are so important to our state's history that they were even responsible for naming this Land of Plenty, Kentucke; and

WHEREAS, even today, Kentucky is home to more than 6,000 Native American Indians; and

WHEREAS, Native American Indians have played a vital role in the life of our Commonwealth, and their many contributions have enhanced the freedom, prosperity, and greatness of Kentucky; and

WHEREAS, the Commonwealth of Kentucky is committed to remembering these contributions and to honoring the unique heritage of our state's first inhabitants; and

WHEREAS, as we enter the next century, the Commonwealth of Kentucky has an exciting opportunity to open a new era of understanding, cooperation, and respect among all Kentuckians; and

WHEREAS, a special observance would reflect our Commonwealth's commitment to the Native American Indians as an integral part of the social, political, and economic fabric of the state of Kentucky; and

WHEREAS, a special observance would embody the fundamental belief of Kentuckians that people of widely varied and diverse cultural backgrounds must stand united together to make this great Commonwealth strong;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

(1) The month of November of each year shall be observed in Kentucky as "Native American Indian Month" and during this month schools, clubs, and civic and religious organizations are encouraged to recognize the contributions of Native American Indians with suitable ceremony and fellowship designed to promote greater understanding and brotherhood between Native American Indians and the non-Native American Indian people of the Commonwealth of Kentucky.

(2) The Governor shall, prior to the first day of November of each year, issue a proclamation inviting and urging the people of the Commonwealth to observe Native American Indian Month with suitable ceremony and fellowship.

(3) The Kentucky Department of Education, Kentucky Heritage Council, and the Native American Heritage Commission established by Executive Order 96-272 shall, within the limits of funds available for this purpose, make information available to all people of this Commonwealth regarding Native American Indian Month and the observance thereof.

The Committee Amendment No. 1 Title to **HB 801** is as follows:

By changing the title to "AN ACT relating to establishing Native American Indian Month in Kentucky."

HB 813, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.701 is amended to read as follows:

(1) There is hereby created and established a state fund to be known as "Kentucky Retirement Systems Insurance Fund."

(2) The fund is created for the purpose of providing a fund separate from the retirement funds and is to be used to provide fringe benefits to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries named in KRS 61.702~~[(4)]~~.

(3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems and the board shall manage the assets of the fund in the same manner in which it administers the retirement funds.

Section 2. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall

contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in the line of duty, as defined in KRS 16.505(19), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty, as defined in KRS 16.505(19), shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member of the County Employees Retirement System, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service for which benefits are eligible under KRS 21.345 to 21.510.

1. Upon request by a member, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in the Judicial Retirement System, and calculate the portion of the member's premium to be paid by the County Employees Retirement System, according to the criteria established in paragraph (a) of this subsection. The Judicial Retirement Fund annually shall pay to the County Employees Retirement System the percentage of the system's cost of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the Judicial Retirement System divided by his total combined service. The amounts paid by the Judicial Retirement Fund and the County Employees Retirement System shall not be more than one hundred percent (100%) of the single premium amount adopted by the respective boards of trustees or more than the maximum percentage payable under the program established under this section or KRS 21.427.

2. A member who elects hospital and medical benefits under this subsection shall lose any claim to insurance benefits under the Judicial Retirement Plan as described in KRS 21.427, and the election shall be irrevocable.

(4) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits. The other provisions of this section notwithstanding, the insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary, as the fund pays or paid for the member. The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) ***After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for dependents, as provided to persons retiring under the provisions of KRS 21.427.***

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

The Committee Substitute to **HB 813** is as follows:

AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.701 is amended to read as follows:

(1) There is hereby created and established a state fund to be known as "Kentucky Retirement Systems Insurance Fund."

(2) The fund is created for the purpose of providing a fund separate from the retirement funds and is to be used to provide fringe benefits to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries named in KRS 61.702~~[(4)]~~.

(3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems and the board shall manage the assets of the fund in the same manner in which it administers the retirement funds.

Section 2. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another

method. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in the line of duty, as defined in KRS 16.505(19), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty, as defined in KRS 16.505(19), shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member of the County Employees Retirement System, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service for which benefits are eligible under KRS 21.345 to 21.510.

1. Upon request by a member, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in the Judicial Retirement System, and calculate the portion of the member's premium to be paid by the County Employees Retirement System, according to the criteria established in paragraph (a) of this subsection. The Judicial Retirement Fund annually shall pay to the County Employees Retirement System the percentage of the system's cost of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the Judicial Retirement System divided by his total combined service. The amounts paid by the Judicial Retirement Fund and the County Employees Retirement System shall not be more than one hundred percent (100%) of the single premium amount adopted by the respective boards of trustees or more than the maximum percentage payable under the program established under this section or KRS 21.427.

2. A member who elects hospital and medical benefits under this subsection shall lose any claim to insurance benefits under the Judicial Retirement Plan as described in KRS 21.427, and the election shall be irrevocable.

(4) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits. The other provisions of this section notwithstanding, the insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary, as the fund pays or paid for the member. The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) ***After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.***

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

HB 857, AN ACT relating to local government utility financing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context otherwise requires:

(1) "Committee" means the executive committee of the Local Government Utility Financing Corporation;

(2) "Corporation" means the Local Government Utility Financing Corporation;

(3) "Board" means the board of directors for the Local Government Utility Financing Corporation;

(4) "Bonds" or "notes" means revenue bonds, commercial paper revenue bonds, refunding revenue bonds, variable rate revenue bonds, notes, or other obligations issued by the corporation under subsection (2) of Section 6 of this Act;

(5) "Fund" means the Local Government Utility Financing Trust Fund;

(6) "Local government" means a city, county, urban-county, or charter county or special district or an agency formed by the combination of these agencies under KRS 65.210 to 65.300; and

(7) "Project" means any capital construction or improvements to water systems, sewage treatment facilities or other municipal utility systems that is financed under subsection (2) of Section 6 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established an independent, de jure, municipal corporation and political subdivision of the Commonwealth, which shall be a public body corporate and politic, to be known as the Local Government Utility Financing Corporation. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.870.

(2) The corporation is created and established to assist cities, counties, and special districts with obtaining an adequate bond rating, enhance creditworthiness and provide low-cost financing for construction, expansion, or improvements made to water systems, sewerage treatment facilities, and other utility systems.

SECTION 3. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) The corporation shall be governed by a board of directors whose membership shall consist of the following:

(a) One person to be appointed by the board of directors from each of the fifteen (15) area development districts;

(b) The chair of the League of Cities;

(c) The chair of the Kentucky Association of County Judge/Executives; and

(d) The chair of the Kentucky Rural Water Association.

(2) Members of the board shall serve a term not to exceed four (4) years, except that the terms of the members initially appointed to the board shall be as follows:

(a) Six (6) of the members shall serve four (4) years;

(b) Four (4) of the members shall serve three (3) years;

(c) Four (4) of the members shall serve two (2) years; and

(d) Four (4) members shall serve a one (1) year term.

(3) Members may be reappointed and eligible to serve successive terms on the board.

(4) Nine (9) members shall constitute a quorum and have the authority to conduct business in the name of the corporation.

(5) Members of the board shall elect, on an annual basis, the following officers: chair, vice chair, secretary, and treasurer.

(6) The board shall, at a minimum, meet once every quarter. Emergency meetings of the board may be called at the request of the chair of the board.

(7) Members of the board shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the board.

SECTION 4. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

Any member of the board of the corporation may be removed by the appropriate appointing authority for neglect of duty, malfeasance, misfeasance, or conflict of interest. When a member is removed, the reasons for removal shall be set forth in writing and shall be read at the next meeting of the board or executive committee, whichever occurs first.

SECTION 5. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) The officers of the board plus three (3) additional board members, elected by the membership of the full board, shall constitute the executive committee of the corporation. The chair of the board shall serve as chair of the executive committee. A meeting of the executive committee may be called, at any time, upon notice by the chair of the board.

(2) When the board is not meeting, all powers and authorities granted to the board under Sections 6 and 9 of this Act shall be vested in the executive committee.

(3) A simple majority of the members of the executive committee shall constitute a quorum and shall be sufficient for the committee to transact business in the name of the corporation, except that a quorum need not be necessary for

adjournment.

(4) The executive committee shall not be authorized to amend the bylaws or other rules or policies of the corporation.

(5) Members of the executive committee shall not receive compensation but shall be reimbursed for the actual travel expenses while on official business of the commission.

SECTION 6. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) The Local Government Utility Corporation shall have the power to contract and be contracted with, to receive appropriations from the state, gifts and grants from other private and public entities, and federal funds. In addition to the powers and functions stated in Sections 1 to 11 of this Act, the corporation shall have all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the corporation.

(2) The corporation shall adopt bylaws for the regulation of its affairs and the conduct of its business and prescribe rules, regulations, and policies in connection with the performance of its functions and duties named as follows:

- *(a) Issuing revenue bonds on behalf of local governments for the financing of water systems, sewerage treatment facilities, and other utility systems and to issue refunding bonds for the purpose of retiring or paying an outstanding bond issue let by the commission;*
- *(b) Making loans from the local government utility financing trust fund provided in Section 8 of this Act to local governments for the financing of water systems, sewerage treatment facilities, and other utility systems predicated on the following conditions:*
  - *1. Loans shall be made at or below market interest rates, including interest-free loans;*
  - *2. Loan recipients shall establish a dedicated source of revenue that may include a lease-purchase arrangement with the corporation for repayment of loans; and*
  - *3. The fund shall be credited with all payments of principals, interest, or earnings that may include fees or penalties assessed by the commission on all loans made by the corporation;*
- *(c) Guaranteeing, or purchasing insurance for obligations of the fund where the action would improve the credit market access or the bond rating for the securities issued by the corporation on behalf of local governments or to lower interest rates on loans made by the corporation to local governments;*
- *(d) Providing a source of revenue or security for the payment of principal and interest on revenue bonds issued by the corporation for local governments, if the proceeds from the sale of the revenue bonds are deposited in the fund;*
- *(e) Selecting of a trustee, that shall be a nationally recognized bank and that shall have trust powers, to receive and administer any funds in the name of the corporation;*
- *(f) Evaluating and approving or disapproving utility project applications submitted by local governments to the corporation for financial assistance; and*
- *(g) Determining any minimum threshold for project size or for a bond issue which may be set at the discretion of the corporation.*

(3) No member of the corporation, nor any person executing any of the functions listed in subsection (2) of this section related to the issuance of revenue or refunding bonds, shall be personally liable for the repayment of the principal or interest associated with their issuance.

(4) Any bonds or other obligations issued by the corporation under the provisions of Sections 1 to 11 of this Act shall not be deemed to constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state, but shall be payable solely from the revenues or assets of the local government on whose behalf the bonds or obligations are issued. Each bond issued under Sections 1 to 11 of this Act shall contain on its face a statement to the effect that the corporation shall not be obligated to pay the principal or interest on the bonds except from the revenues or assets pledged therefor, and that neither the faith and credit nor the taxing power of the state is pledged for the repayment of the principal or the interest on any bond issued by the corporation. Nothing in this section shall prohibit the corporation from guaranteeing or securing the interest or principal on the bonds with the assets of the fund as provided for in subsection (2) of this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) At the first meeting of the board, members shall designate, in accordance with procedures established in their bylaws, a private commercial bank to act in the capacity of trustee for the local government utility financing commission trust fund. No funds shall be received by the corporation until a trustee is designated.

(2) Any appropriations made to the corporation by the state shall be received pursuant to negotiating a memorandum of agreement with the Finance and Administration Cabinet that will, at minimum, set forth certain expectations for how funds shall be invested, accounted for, and expended by the corporation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a local government utility financing trust fund which shall be located in a state depository, named by the Local Government Utility Financing Corporation as trustee over the fund.

(2) The fund shall be a dedicated reserve fund and all moneys in the fund shall be expended solely to provide financing to local governments for construction of or for improvements made to water systems, sewage treatment facilities, and other utility systems, except that interest on or earnings made from the reinvestment of the principal and the recapitalization of earnings may be expended for any reasonable and ordinary expenses associated with the maintenance of the fund and the procurement of services necessary to fulfill its duties and functions as provided in subsection (2) of Section 6 of this Act.

(3) The fund shall be established, maintained, and credited with repayments and the fund balance shall be available solely for the purposes stated in subsection (2) of Section 6 and subsection (2) of this section. After all bonds issued by the corporation are retired, and the corporation is dissolved, the corporation shall deposit any balance that remains in the fund in the state's general fund.

(4) Nothing in this section shall prohibit the corporation from establishing additional funds with the trustee as deemed necessary to maintain efficient and sound fund accounting practices.

SECTION 9. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) Bonds shall be authorized by a resolution of the commission and may contain the following provisions as documented in a trust indenture of mortgage:

  (a) May be issued in one or more series each of which may be sold separately;

  (b) May be issued at any date or dates;

  (c) May mature at any date or dates;

  (d) May bear any interest rate or have a variable interest rate including a provision for no interest rate for a period of years after which the bond may bear a greater interest rate;

  (e) May capitalize interest for a period not to exceed three (3) years;

  (f) May be in single or multiple denominations;

  (g) May be in coupon or registered form and carry conversion or registration privileges;

  (h) May have rank or priority;

  (i) May have terms of redemption with or without a premium;

  (j) May be executed in any manner;

  (k) May be payable in any medium of exchange;

  (l) May be payable in any place;

  (m) May be issued so that interest earned may not be exempt from federal income tax or may be designed to meet standards required under federal statutes or regulations pertaining to the issuance of tax-exempt bonds;

  (n) May be sold at less than par; and

  (o) Shall be sold at public sale held after notice has been given by publication in accordance with KRS Chapter 424.

(2) Bonds issued by the Local Government Utility Financing Corporation shall be payable exclusively from the income and revenues of the project or projects financed by the proceed from the sale of the bonds, grants, or other contributions from federal, state, or local governments.

(3) Bonds may be secured by a mortgage, deed of trust, or other lien or encumbrance upon the property or properties deemed as the underlying physical plant and assets of the project or projects, including local government pledges of tax increments.

(4) In the case that any board member or officer of the corporation whose signatures appear on any bonds ceases to remain board member or officer before their delivery, those bonds shall not be invalidated and the signature of the member or officer shall be sufficient for all purposes as if the member or officer had remained in office until their delivery.

(5) Notwithstanding any provision of law to the contrary, any bonds and any interest coupons appertaining thereto that are issued pursuant to subsection (2) of Section 6 of this Act shall be and are hereby made fully negotiable instruments under the laws of this state, except as may be limited by their terms, and subject only to any applicable provisions for registration.

SECTION 10. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

The corporation shall, promptly following the close of each fiscal year, submit an annual report of its activities for the

preceding year to the Department of Local Government. Reports shall set forth a complete operating and financial statement of the corporation during the year. The corporation also shall cause an annual audit to be made by an independent certified public accountant of the books, accounts, and records of the corporation and of the fund, with respect to its receipt, disbursement, contract, mortgages, leases, assignments, loans, and all other matters relating to its financial operations. A copy of the audit shall be submitted to the Department of Local Government.

SECTION 11. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

The corporation has been duly created as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky. Accordingly, the corporation shall not be required to pay any taxes and assessments to the Commonwealth of Kentucky, or any county, municipality, or other governmental subdivision of the Commonwealth of Kentucky, upon any of its property or upon its obligations or other evidences of indebtedness under Sections 6 and 9 of this Act, or upon any moneys, funds, revenues, or other income held or received by the corporation, and the notes and bonds of the corporation and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers. Real property owned by the corporation shall be exempt from all property taxation and special assessments of the state or political subdivisions thereof, but the corporation may agree to pay, in lieu of these taxes, such amounts as the corporation finds consistent with the cost to the state or political subdivision of supplying municipal services to the properties.

SECTION 12. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, any water association, commission, district, or combined water, gas, or sewer district, formed under KRS Chapter 74 or KRS Chapter 273, that finances a line extension project of less than one million dollars ($1,000,000), in whole or in part, from a bond issue let by, or loan from the Local Government Utility Financing Corporation, shall file specific documents setting forth a change in rates, including any surcharges for the customers in the area to benefit by the line extension project. The commission shall review the project and the supporting documents and may make modifications or recommend changes to the project, within thirty (30) days from the date of the filing, or issue a certificate of convenience and necessity along with any other orders as may be required.

Section 13. KRS 42.455 is amended to read as follows:

(1) There is established within the Department of Local Government a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following, but in no event shall grants obtained under this program be used for expenses related to administration of government:

  (a) Public safety, including law enforcement, fire protection, ambulance service and other related services;
  (b) Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;
  (c) Public transportation, including mass transit systems, streets, and roads;
  (d) Health;
  (e) Recreation;
  (f) Libraries and educational facilities;
  (g) Social services for the poor, the elderly, and individuals with disabilities;
  (h) Industrial and economic development;
  (i) Vocational education;
  (j) Workforce training; and
  (k) Secondary wood industry development.

(3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(5) The Department of Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(6) The Department of Local Government shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The department shall submit an annual report to the Governor

indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(7) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department of Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of such highways, roads, and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.

(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads, and streets shall file with the Transportation Cabinet such information and at such intervals as the department shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

(9) The Revenue Cabinet shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; if the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

(10) Grants obtained under this program may be used to finance up to twenty percent (20%) of the debt that is not entirely funded under the financing options available through the Local Government Utility Financing Corporation for the purposes provided under subsection (2) of Section 6 of this Act.

HCR 94, A CONCURRENT RESOLUTION requesting a study relating to emergency services dispatchers.

WHEREAS, the prompt and efficient provision of emergency services depends upon effective communications; and

WHEREAS, more and more communities are availing themselves of 911 emergency telephone service; and

WHEREAS, 911 emergency telephone service is predicated upon all emergency services calls that request emergency service responses going through a single communications center; and

WHEREAS, it is duplicative and wasteful to have more than one emergency dispatch center per community; and

WHEREAS, 911 or other emergency dispatcher must dispatch police, fire, rescue, emergency medical services, hazardous materials, and emergency management units on a routine basis; and

WHEREAS, the only present certification for these persons is the Law Enforcement Telecommunicator Program; and

WHEREAS, the Law Enforcement Telecommunicator Program focuses, of necessity, on dispatch of law enforcement officers and services to law enforcement officers, such as record checks, vehicle registration checks, and similar routine matters; and

WHEREAS, modern emergency dispatch centers, and their dispatchers, must dispatch and service a myriad of emergency services, and the dispatchers do not receive in-depth training as to how to dispatch and serve those services; and

WHEREAS, proposals have been made to certify emergency medical dispatchers; and

WHEREAS, it is not in the best interest to continue to certify single subject dispatchers in a world which requires multifaceted responses;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Local Government is directed to undertake a study of current and future:

(1) Emergency dispatch center needs;

(2) Emergency dispatch center personnel needs;

(3) Needs of emergency services for emergency dispatch center personnel training;

(4) Types of training needed;

(5). Types of certification needed;

(6) The necessity of combining training and certification into one program;

(7) The ability of state agencies to deliver the needed training; and

(8) Any other matter relating to emergency dispatch centers, 911 centers, and their personnel deemed necessary by the committee.

Section 2. To make findings and recommendations to the Legislative Research Commission not later than July 1, 1999, along with a draft of any statutory changes proposed to implement the findings and recommendations and a cost estimate for implementing the findings and recommendations.

Section 3. Staff services to be utilized in completing this study are estimated to cost $15,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HCR 113, A CONCURRENT RESOLUTION to create a Task Force on Information Technology.

WHEREAS, information technology is permitting governments, business, and commerce to migrate increasingly toward a paperless society in which information is created, stored, and communicated electronically;

WHEREAS, the appropriate use of information technology is essential to the effective and efficient operation of government, providing necessary services to the public and enhancing citizen access to government; and

WHEREAS, vigilance is required to ensure the security, quality, and integrity of governmental information; and

WHEREAS, the privacy of the citizens of the Commonwealth should not be sacrificed by the use of information technology; and

WHEREAS, it is imperative that the General Assembly keep abreast of the development of information technologies and their impact on both citizen and private enterprise constituents; and

WHEREAS, the General Assembly must not only keep abreast of development of information technologies, it must also assume a leadership role in enacting legislation which will ensure that information technologies are utilized in ways that promote and protect the public interest;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. There is hereby established a Task Force on Information Technology as a subcommittee of the Legislative Research Commission to review current and emerging information technologies that impact both the public and private sectors, review associated issues and application of the technologies, keep the General Assembly informed regarding the technologies and their impact, and make recommendations to the General Assembly for needed legislation.

Section 2. The membership shall consist of the following:

(1) One (1) member of the House of Representatives appointed by the Speaker of the House;

(2) One (1) member of the Senate appointed by the President of the Senate;

(3) One (1) representative of the Governor's Empower Kentucky initiative appointed by the Governor;

(4) One (1) representative of the judicial branch appointed by the Chief Justice;

(5) One (1) representative of the Department of Financial Institutions appointed by the Commissioner of the Department of Financial Institutions;

(6) One (1) representative of the Finance and Administration Cabinet appointed by the Secretary of Finance and Administration;

(7) One (1) representative of the Health Services Cabinet appointed by the Secretary of Health Services;

(8) One (1) representative of the Department of Education appointed by the Commissioner of Education;

(9) The Secretary of State or his designee;

(10) One (1) representative of the American Bankers' Association appointed by the Legislative Research Commission;

(11) One (1) representative of the Kentucky Hospital Association appointed by the Legislative Research Commission;

(12) One (1) representative of the Kentucky Bar Association appointed by the Legislative Research Commission;

(13) One (1) representative of the Kentucky Chamber of Commerce appointed by the Legislative Research Commission.

Section 3. The member of the Senate and the member of the House of Representatives shall serve as co-chairs. Members of the Task Force who are not otherwise public officials shall receive reimbursement for their actual and necessary expenses.

Section 4. The duties and responsibilities of the Task Force shall include but not be limited to:

(1) Examining current and emerging information technology, including electronic data and information processing, telecommunications, software and hardware technology, and the application of those technologies;

(2) Researching the potential impact of information technology on public policy and commerce and determining areas that may need legislative attention;

(3) Serving as a forum for private sector entities to present their concerns, perspectives, and suggestions for possible legislation to address their needs;

(4) Reviewing legal aspects and issues relating to information technologies and their application;

(5) Studying information security issues and requirements as they relate to electronic commerce and on-line state and local government;

(6) Assisting the General Assembly in determining whether it is in the public interest to regulate specific areas of information technology;

(7) Studying means to minimize the incidence of computer-related crimes;

(8) Evaluating current and emerging technologies to ensure the privacy of the citizens of the Commonwealth; and

(9) Conducting any other studies or evaluations the task force considers pertinent or necessary to effectuate its purpose.

Section 5. No later than August 1, 1999, the Task Force on Information Technology shall report its findings and recommendations, including proposals for legislation, to the Legislative Research Commission for review by the Interim Joint Committee on State Government.

Section 6. Staff services shall be provided by the staff of the Legislative Research Commission and are estimated to cost $30,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Substitute to **HCR 113** is as follows:

A CONCURRENT RESOLUTION to create a Task Force on Information Technology.

WHEREAS, information technology is permitting governments, business, and commerce to migrate increasingly toward a paperless society in which information is created, stored, and communicated electronically;

WHEREAS, the appropriate use of information technology is essential to the effective and efficient operation of government, providing necessary services to the public and enhancing citizen access to government; and

WHEREAS, vigilance is required to ensure the security, quality, and integrity of governmental information; and

WHEREAS, the privacy of the citizens of the Commonwealth should not be sacrificed by the use of information technology; and

WHEREAS, it is imperative that the General Assembly keep abreast of the development of information technologies and their impact on both citizen and private enterprise constituents; and

WHEREAS, the General Assembly must not only keep abreast of development of information technologies, it must also assume a leadership role in enacting legislation which will ensure that information technologies are utilized in ways that promote and protect the public interest;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. There is hereby established a Task Force on Information Technology as a subcommittee of the Legislative Research Commission to review current and emerging information technologies that impact both the public and private sectors, review associated issues and application of the technologies, keep the General Assembly informed regarding the technologies and their impact, and make recommendations to the General Assembly for needed legislation.

Section 2. The membership shall consist of the following:

(1) One (1) member of the House of Representatives appointed by the Speaker of the House;

(2) One (1) member of the Senate appointed by the President of the Senate;

(3) The Chief Information Officer of the Commonwealth;

(4) One (1) representative of the judicial branch appointed by the Chief Justice;

(5) One (1) representative of the Department of Financial Institutions appointed by the Commissioner of the Department of Financial Institutions;

(6) One (1) representative of the Finance and Administration Cabinet appointed by the Secretary of Finance and Administration;

(7) One (1) representative of the Health Services Cabinet appointed by the Secretary of Health Services;

(8) One (1) representative of the Department of Education appointed by the Commissioner of Education;

(9) The Secretary of State or his designee;

(10) One (1) representative of the American Bankers' Association appointed by the Legislative Research Commission;

(11) One (1) representative of the Kentucky Hospital Association appointed by the Legislative Research Commission;

(12) One (1) representative of the Kentucky Bar Association appointed by the Legislative Research Commission;

(13) One (1) representative of the Kentucky Chamber of Commerce appointed by the Legislative Research Commission.

Section 3. The member of the Senate and the member of the House of Representatives shall serve as co-chairs. Members of the Task Force who are not otherwise public officials shall receive reimbursement for their actual and necessary expenses.

Section 4. The duties and responsibilities of the Task Force shall include but not be limited to:

(1) Examining current and emerging information technology, including electronic data and information processing, telecommunications, software and hardware technology, and the application of those technologies;

(2) Researching the potential impact of information technology on public policy and commerce and determining areas that may need legislative attention;

(3) Serving as a forum for private sector entities to present their concerns, perspectives, and suggestions for possible legislation to address their needs;

(4) Reviewing legal aspects and issues relating to information technologies and their application;

(5) Studying information security issues and requirements as they relate to electronic commerce and on-line state and local government;

(6) Assisting the General Assembly in determining whether it is in the public interest to regulate specific areas of information technology;

(7) Studying means to minimize the incidence of computer-related crimes;

(8) Evaluating current and emerging technologies to ensure the privacy of the citizens of the Commonwealth; and

(9) Conducting any other studies or evaluations the task force considers pertinent or necessary to effectuate its purpose.

Section 5. No later than August 1, 1999, the Task Force on Information Technology shall report its findings and recommendations, including proposals for legislation, to the Legislative Research Commission for review by the Interim Joint Committee on State Government.

Section 6. Staff services shall be provided by the staff of the Legislative Research Commission and are estimated to cost $30,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HCR 125, A CONCURRENT RESOLUTION urging the General Assembly to designate Fishtrap Lake as a Kentucky State Park and to appropriate necessary funds.

WHEREAS, Fishtrap Lake, located at the Levisa Fork of the Big Sandy River, was designated in 1968 as a flood control area; and

WHEREAS, Fishtrap Lake is an outstanding and untapped natural resource in the state of Kentucky; and

WHEREAS, the natural resources and beauty found in the Big Sandy area are unique treasures in the Commonwealth and should be shared and celebrated by all citizens of the state;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly is hereby urged to designate Fishtrap Lake as a Kentucky State Park and to appropriate funds for the purchase and renovation of the area, to include the construction of hiking, mountain biking, and horseback riding trails; a concession area, a marina, a road surrounding the lake, a restaurant, and a lodge.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Governor Paul E. Patton, 700 Capitol Avenue, Frankfort, Kentucky 40601; Representative Chris Ratliff, P.O. Box 1306, Pikeville, Kentucky 41502; Commissioner Kenny Rapier, Kentucky Department of Parks, Capital Plaza Tower, 10th Floor, 500 Mero Street, Frankfort, Kentucky 40601; Steven D. Combs, Mayor of Pikeville, P.O. Box 1228, Pikeville, Kentucky 41502; and Donna Damron, Pike County Judge Executive, 324 Main Street, Pikeville, Kentucky 41501.

The Committee on Economic Development reported **HB 780,** with Committee Substitute attached thereto, **HB 911,** with Committee Substitute attached thereto, and **HCR 124**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 780, AN ACT relating to small business.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that:

(1) Small business is the backbone of our state's economy;

(2) Administrative rules promulgated by state agencies can have an unduly burdensome impact on the growth and vitality of small business;

(3) State agencies need to consult with the small business community when promulgating administrative regulations to better assess their impact and to consider alternatives that will ease the impact of administrative regulations on small business;

(4) Small businesses need to better utilize the administrative regulation review process to provide more input and to be aware of the impact of administrative regulations;

(5) An independent advisory council needs to consider the concerns of small businesses and make recommendations to adopt, amend, or repeal administrative regulations;

(6) An administrative body's interpretation or application of its administrative regulations may also have a disproportionately burdensome impact on a small business especially when the small business lacks the resources to contest an administrative body's interpretation or application of an administrative regulation that imposes a fine, citation, or penalty; and

(7) The state's business climate will be improved by assisting small businesses in challenging an administrative body's administrative regulations that carry penalty provisions by providing an opportunity for compliance without the assessment of monetary fines and providing a business defender to challenge citations and fines that may be unfairly or unnecessarily assessed against a small business.

SECTION 2. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 and Sections 8, 9, 10, and 11 of this Act:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Affected small businesses" or "affects small business" means any potential or actual requirement imposed upon a small business through an administrative body's proposed or adopted administrative regulation that will cause a direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of KRS Chapter 13A;

(4) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Legislative Research Commission in accordance with the provisions of KRS Chapter 13A; and

(5) "Small business" means a for-profit enterprise that meets the small business size standards as defined in Part 121 of Title 13 of the Code of Federal Regulations.

SECTION 3. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) There shall be established within and administratively attached to every cabinet or agency of the state whose administrative regulations affect small business activities an advisory committee on small business.

(2) The advisory committee shall consist of three (3) or more odd number of members appointed by the cabinet or agency and may advise more than one (1) department within the cabinet or agency. The cabinet or agency shall have the authority to appoint members to the advisory council and to fill any vacancies. The members shall serve on a volunteer basis for a period of no more than two (2) years and have experience or knowledge of the effect of regulation by those cabinets or agencies on the formation, operation, or expansion of a small business.

(3) No person shall serve on an advisory committee on small business and the Small Business Advisory Council concurrently.

SECTION 4. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) When an administrative body is proposing an administrative regulation that affects small business, it shall consult with the administratively attached departmental advisory committee on small business regarding any matter related to the proposed administrative regulation prior to complying with the requirements for promulgating administrative regulations provided in KRS Chapter 13A.

(2) Each administrative body shall develop its own internal management procedures for soliciting comments during the drafting of proposed administrative regulations from owners or officers of affected small businesses. The administrative body may develop creative procedures for the solicitation of comments from affected small business owners during the drafting or development of proposed administrative regulations.

(3) Administrative bodies may also consult any group or members of affected small businesses to formulate relevant language, develop criteria, and provide any other expertise to insure that the proposed administrative regulation will be drafted in a manner that will protect public health, welfare, and safety without placing an undue and significant burden upon small business.

SECTION 5. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any affected small business may file a written petition with the Small Business Advisory Council objecting to all or part of the administrative regulation affecting small business on any of the following grounds:

(a) The actual effect on small business is not reflected in, or significantly exceeds, the small business impact statement submitted prior to the promulgation of the administrative regulation;

(b) The small business impact statement does not consider new or significant economic information that reveals an undue impact on small business; or

(c) These impacts were not previously considered at the public hearing on the administrative regulation.

(2) For administrative regulations adopted prior to the effective date of this Act, an affected small business may file a written petition with the Small Business Advisory Council objecting to all or part of any administrative regulation affecting small business on any of the following grounds:

(a) The administrative regulation creates an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs its benefit to the public;

(b) The administrative regulation duplicates, overlaps, or conflicts with administrative regulations adopted by another administrative body or violates the substantive authority under which the administrative regulation was adopted; or

(c) The technology, economic conditions, or other relevant factors justifying the purpose for the administrative regulation have changed or no longer exist.

(3) Upon submission of the petition, the council shall forward the petition to the administrative body promulgating the administrative regulation. The administrative body shall promptly seek advice and counsel regarding the petition from the appropriate departmental advisory committee on small business. The administrative body shall determine whether or not the impact statement or the public hearing addressed the actual and significant impact on small business.

(4) The administrative body shall submit a written response of its determination to the Small Business Advisory Council within sixty (60) days after receipt of the petition.

(5) If the administrative body determines that the petition merits the promulgation, amendment, or repeal of an administrative regulation, it may initiate proceedings in accordance with KRS Chapter 13A.

(6) If the administrative body determines that the petition does not merit the promulgation, amendment, or repeal of an administrative regulation, any affected small business may seek a review of the decision by the Small Business Advisory Council. The council shall solicit testimony that will assist in its determination whether to recommend that the administrative body initiate proceedings in accordance with KRS Chapter 13A, and if so, what those proceedings should be.

(7) For administrative regulations adopted after the effective date of this Act, the council may base its recommendation made under subsection (6) of this section on any of the following reasons:

(a) The actual affect on small business was not reflected in, or significantly exceeded, the impact statement submitted prior to the adoption of the administrative regulation;

(b) The impact statement did not consider new or significant economic information that reveals an undue impact on small business; or

(c) These impacts were not previously considered at the public hearing on the administrative regulation.

(8) For administrative regulations adopted before the effective date of this Act, the council may base its recommendation made under subsection (6) of this section to the administrative body on any of the following

reasons:

- *(a) The administrative regulation creates an undue barrier to the formation, operation, and expansion of small businesses in the state in a manner that significantly outweighs its benefit to the public;*
- *(b) The administrative regulation duplicates, overlaps, or conflicts with administrative regulations adopted by another administrative body or violates the substantive authority under which the administrative regulation was adopted; and*
- *(c) The technology, economic conditions, or other relevant factors justifying the purpose for the administrative regulation have changed or no longer exist.*

(9) If the Small Business Advisory Council recommends that an administrative body initiate administrative regulation making proceedings for any reason provided in subsection (7) or (8) of this section, it shall submit an evaluation report and the administrative body's written response as provided in subsection (4) of this section to the legislature. The legislature may subsequently take action in response to the evaluation report and the administrative body's response as it finds appropriate.

SECTION 6. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Each administrative body having administrative regulations that affect small business in effect on the effective date of this Act, shall by June 30 of each odd numbered year, submit a list of those administrative regulations to the Small Business Advisory Council. The administrative body shall also submit a report describing the specific public purpose or interest for promulgating each administrative regulation and any other reasons to justify its continued implementation.

(2) In addition to the petitions received under Section 5 of this Act, the Small Business Advisory Council shall provide to the head of each administrative body on a regular basis a list of administrative regulations adopted by the administrative body that affect small business and that have generated complaints or concerns, including any administrative regulation that the council determines may duplicate, overlap, or conflict with other administrative regulations, or exceed statutory authority. Within forty-five (45) days after being notified by the council of the list, the administrative body shall submit a written report to the council in response to the complaints or concerns. The administrative body shall also state whether the administrative body has considered the continued need for the administrative regulation and the degree to which technology, economic conditions, and other relevant factors may have diminished or eliminated the need for maintaining the administrative regulation.

(3) The council may solicit testimony from the public regarding any report submitted by the administrative body under this section at a public meeting. Upon consideration of any report submitted by an administrative body under this section and any public testimony, the Small Business Advisory Council shall submit an evaluation report to the legislature by October 1 of odd-numbered years. The evaluation report shall include an assessment as to whether the public interest significantly outweighs an administrative regulation's effect on small business and any legislative proposal to eliminate or reduce the effect on small business. The legislature may take action in response to the report as it finds appropriate.

SECTION 7. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Any administrative body authorized to assess civil penalties or fines upon a small business shall waive or reduce any penalty or fine as allowed by federal or state law for a violation of any statute, ordinance, or administrative regulation by a small business under the following conditions:

- *(a) The small business corrects the violations within a minimum of thirty (30) days after receipt of a notice of violation or citation; and*
- *(b) The violation was unintentional or the result of excusable neglect; or*
- *(c) The violation was the result of an excusable misunderstanding of an administrative body's interpretation of an administrative regulation.*

(2) Subsection (1) of this section shall not apply when:

- *(a) A small business fails to exercise good faith in complying with the statute or administrative regulation;*
- *(b) A violation involves willful or criminal conduct; or*
- *(c) A violation results in serious health, safety, or environmental impact.*

(3) An administrative body may adopt administrative regulations to implement the requirements of this section.

Section 8. KRS 154.12-215 is amended to read as follows:

(1) The duties of the Department of Community Development shall include but not be limited to:

- (a) Collecting, summarizing, and disseminating information helpful to minority businesses, including information on:

1. Market research;
2. New business opportunities;
3. Federal, state, and local minority business programs; and
4. The availability of managerial assistance programs within the state educational system;

(b) Assisting minority businesses with federal, state, and local government agencies, regulations, and procurement programs.

(c) Providing staff assistance to the council;

(d) Providing information on federal, state, and local small business programs and regulations;

(e) Making referrals to managerial assistance programs within the state educational system; and

(f) Introducing entrepreneurs to individual investors and to investment capital firms interested in start-up and early-stage financing.

(2) The commissioner is designated a small business ombudsman and shall:

(a) Receive and refer complaints of small business to the council and the appropriate administrative bodies;

(b) Coordinate the activities of all administrative bodies performing functions affecting the operation of small business in the Commonwealth;

(c) Represent the interests of the council and small businesses in the Commonwealth before federal, state, and local administration and regulatory agencies;

(d) Appoint a small business defender to represent, defend, and provide legal representation to any small business during any adjudicatory or contested proceeding involving any civil citation issued by an administrative body in which the small business is a party, provided that the small business shall seek its own legal representation whenever the potential remedies against the small business may include fines or penalties that exceed twenty-five thousand dollars ($25,000) or may result in the suspension or revocation of a license. The small business defender shall have the discretion to accept or refuse any case for good cause. The small business defender may also engage in the following activities:

1. Advocate and negotiate, upon consultation with the council and with federal and state agencies and officials on any matter relating to and promoting the interests of small business;

2. Conduct investigations to secure information useful in the lawful administration of any provision of this section, Sections 1 to 7, and Sections 9, 10, and 11 of this Act;

3. Refer any appropriate matter to the legislature for examination or investigation; and

4. Do any and all things necessary to effectuate the purposes of this section, Sections 1 to 7, and Sections 9, 10, and 11 of this Act; and

(e)~~[(d)]~~Prepare an annual report of the activities and recommendations of the council and submit the report to the Governor and the appropriate legislative committee having jurisdiction over small business matters.

(3) Small businesses shall waive and release any and all claims, damages, causes of action, and any requests for relief made against the small business defender and the state, its officers, employees, or agents, arising from the legal representation of the small business by the small business defender provided under this section.

Section 9. KRS 154.12-218 is amended to read as follows:

(1) There is established a Small Business Advisory Council ***to consider any request from small business owners for review of any administrative regulation adopted by an administrative body and to make recommendations to the administrative body or the legislature regarding the need for a change in the administrative regulation or in legislation***~~[which shall serve in an advisory capacity to the Department of Community Development]~~.

(2) The council shall be composed of ***eleven (11)***~~[ten (10)]~~ members who are officers or representatives of small businesses. The members of the council shall be appointed by the Governor for four (4) year terms, except that five (5) of the initial members shall be appointed for two (2) year terms. ***After the initial appointments, nominations shall be made from names submitted by any and all of the departmental advisory committees on small business.*** Members may be reappointed. ***The appointments shall reflect representation of a variety of small businesses in the state, provided that no more than two (2) members shall be representatives from the same type of small business or from the same congressional district.***

(3) Members of the council shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the council.

(4) The council shall meet as soon as practicable after the initial ***eleven (11)***~~[ten (10)]~~ members are appointed, and thereafter shall meet ***on a monthly basis***~~[at least twice a year and at the call of the director]~~. The council shall annually elect one (1) of its members to serve as ***chairperson, who shall serve a term of one (1) year, unless removed earlier by a two-***

thirds (2/3) vote of all members of the council[~~chairman~~].

(5) ***A majority of all the members of the council shall constitute a quorum to do business, and the concurrence of a majority of all the members shall be necessary to make any action of the council valid.***

(6) In addition to any other powers provided by this section, Sections 1 to 7, and Section 11 of this Act, the council may adopt any administrative regulations necessary to implement the provisions of those sections; organize and hold conferences on problems affecting small business; and do any and all things necessary to effectuate the purposes of those sections.

(7) The council shall:

(a) ***Receive and review petitions submitted under Section 5 of this Act***[~~Serve as a source of expertise and information on small businesses to the department~~];

(b) ***Review decisions of administrative bodies regarding the promulgation, adoption, amendment, or repeal of an administrative regulation***[~~Keep the department informed with respect to problems of, and matters affecting, small businesses~~]; ***and***

(c) Advise the department, upon request of the department, with respect to any matters relating to small businesses.

Section 10. KRS 13A.017 is amended to read as follows:

(1) Following a public hearing on a proposed administrative regulation held pursuant to the provisions of KRS 13A.015, the administrative body shall give consideration to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing.

(2) The administrative body shall file with the Commission within forty-five (45) days following the date the public hearing was scheduled, a statement:

(a) Identifying the persons who submitted written comments, or attended the public hearing; and

(b) Containing a summary of the:

1. Comments received or made at the public hearing; and

2. Its response to the comments.

(3) ***In addition to the statement in subsection (2) of this section, for any proposed administrative regulation that affects small business, the administrative body shall also submit a small business statement to the Small Business Advisory Council and the departmental advisory committee within forty-five (45) days following the date the public hearing was scheduled. The small business statement shall include a description of how opinions or comments from affected small business were solicited, a summary of the public and small business comments, and a summary of the administrative body's response to those comments.***

(4) The administrative body shall provide a copy of the summary to any person who attended the public hearing and requested that a copy of the summary be provided.

(5)[~~(4)~~] The regulations compiler shall transmit a copy of the summary to a legislator upon request.

(6)[~~(5)~~] If the administrative body promulgates an administrative regulation that was the subject of a public hearing required under the provisions of this section and KRS 13A.015, the regulations compiler shall transmit a copy of the summary to a legislator upon request.

(7)[~~(6)~~] The administrative body shall provide a copy of the summary to persons who attended the public hearing and requested that a copy of the summary be provided.

(8)[~~(7)~~] If an administrative body determines that it will file an administrative regulation, it shall file the administrative regulation for which a notice of intent was filed within one hundred eighty (180) days of the date on which the notice-of-intent public hearing was scheduled.

(9)[~~(8)~~] If the administrative body determines that it will not file an ordinary administrative regulation for which a notice of intent was filed, it shall notify the regulations compiler of its determination, in writing, within one hundred eighty (180) days of the date on which the notice-of-intent public hearing was scheduled.

Section 11. KRS 13A.240 is amended to read as follows:

(1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every administrative regulation when it is filed with the Commission. The regulatory impact analysis shall include, but not be limited to, the following information:

(a) The type and number of individuals, businesses, organizations, and state and local governments affected by the administrative regulation; and

(b) The direct and indirect costs or savings, including, to the extent available from the public comments received, the:

1. Effect on the cost of living and employment in the geographical area in which the administrative

regulation will be implemented; and

2. Effect on the cost of doing business in the geographical area in which the administrative regulation will be implemented; and

3. Compliance, reporting, and paperwork requirements of the administrative regulation on those affected for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second and subsequent years with any factors which might increase or decrease the cost of the administrative regulation, including the effect on competition being noted; and

(c) The direct and indirect costs or savings and paperwork requirements to the promulgating administrative body for the administration and enforcement of the administrative regulation for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the administrative regulation being noted; and

(d) An assessment of any anticipated effect on state and local revenues; and

(e) The source of the revenue to be used for the implementation and enforcement of the administrative regulation; and

(f) To the extent available from the public comments received, the economic impact of the administrative regulation on the geographical area in which the administrative regulation will be implemented, and on the state, including the effects of the economic activities arising from the administrative regulation; and

(g) An assessment of alternative methods for accomplishing the purpose of the administrative regulation and the reasons why they were rejected in favor of the administrative regulation; and

(h) An assessment of the expected benefits of the administrative regulation; and

(i) A statement:

1. Identifying the effects of the administrative regulation on the public health and environmental welfare of the geographical area in which the administrative regulation will be implemented and upon the state; and

2. Stating whether there would be a detrimental effect on the environment and public health if the administrative regulation is not implemented; and

3. If there would be a detrimental effect on the environment and public health, an explanation of the detrimental effect; and

(j) A written statement identifying any statute, rule, regulation, or governmental policy which the administrative regulation may be in conflict with, overlap, or duplicate; and a written statement for the necessity to promulgate the administrative regulation if conflict, overlapping, or duplication is found to exist. The administrative body shall also indicate whether or not any effort has been made to harmonize the administrative regulation with any statute, rule, regulation, or governmental policy with which it has been found to be in conflict***; and***

(k) A statement:

1. Identifying whether the administrative regulation affects small business, and if so, the availability and practicability of less restrictive alternatives that could be implemented; and

2. Offering creative, innovative, or flexible methods of compliance for small businesses; and

3. Explaining the methods considered by the administrative body to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or any other mitigating techniques; and

4. Explaining how the administrative body involved small business in the development of the administrative regulation.

(2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which the information required by subsection (1) is based, and an explanation of how the data was gathered.

(3) The departmental advisory committee on small business created under Section 3 of this Act and the Small Business Advisory Council shall review all regulatory impact analyses submitted by administrative bodies that affect small business.

The Committee Substitute to **HB 780** is as follows:

AN ACT relating to small business.

WHEREAS, small business is the backbone of our state's economy; and

WHEREAS, administrative rules promulgated by state agencies can have an unduly burdensome impact on the growth and vitality of small business; and

WHEREAS, state agencies need to consult with the small business community when promulgating administrative regulations to better assess their impact and to consider alternatives that will ease the impact of administrative regulations on small business; and

WHEREAS, small businesses need to better utilize the administrative regulation review process to provide more input and to be aware of the impact of administrative regulations; and

WHEREAS, an administrative body's interpretation or application of its administrative regulations may also have a disproportionately burdensome impact on a small business especially when the small business lacks the resources to contest an administrative body's interpretation or application of an administrative regulation that imposes a fine, citation, or penalty;

NOW, THEREFORE:

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is hereby established a Subcommittee on Small Business Regulation of the Interim Joint Committee on Economic Development and Tourism. The subcommittee shall conduct a study to:

(a) Review and identify administrative regulations of concern to small business owners because of the economic burdens they places on businesses;

(b) Assess the degree of regulatory burden facing small businesses that creates an undue barrier to the formation, operation, and expansion of small businesses in a manner that outweighs the benefits to the public;

(c) Identify sources of information and programs that assist in regulatory and reporting requirements for small businesses;

(d) Identify methods of regulation that are more collaborative, more solution-oriented, and less punitive to small businesses; and

(e) Make recommendations regarding changes needed in regulations and legislation.

The subcommittee shall seek information and advice from small business owners and operators, government agencies involved in regulation, and others as appropriate.

Section 2. No later than August 31, 1999, the Subcommittee on Small Business Regulation shall report its findings and recommendations, including proposals for legislation, to the Interim Joint Committee on Economic Development and Tourism for its referral to the Legislative Research Commission.

Section 3. Staff services shall be provided by the staff to the Legislative Research Commission and are estimated to cost $15,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HB 911, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its rural economic development assistance program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years and shall certify those counties as qualified counties.

(2) The authority shall under its rural economic development assistance program designate those counties that do not meet the provisions of subsection (1) of this section but meet the criteria of counties with exceptional circumstances, and shall certify those counties as qualified counties. Criteria for designating a county with exceptional circumstances shall include:

(a) A sudden increase in county unemployment that is not temporary or seasonal in nature and that results from:

1. Plant closures or significant employee layoffs;

2. Natural disaster that causes the loss of businesses; or

3. Cancellation of major contracts resulting in unemployment; and

(b) A county unemployment figure, based on the average of six (6) consecutive months, that is more than two hundred percent (200%) of the state unemployment rate averaged over the same period, using monthly figures as released by the Department for Employment Services within the Cabinet for Workforce Development.

(3) If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate ***that meets the criteria of subsection (2) of this section***[~~above the state average~~], the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 ***for those counties qualified pursuant to subsection (1) of this section,*** unless the financing agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county ***and, for those counties qualified pursuant to subsection (2) of this section, unless the financing agreements required herein are entered into by all parties no later than eighteen (18) months following the month of decertification***.

(4)[~~(2)~~] The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(5)[~~(3)~~] The economic development project shall involve a minimum investment of five hundred thousand dollars ($500,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension. No economic development project which will result in the replacement of manufacturing facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing facility located in the same qualified county, and the existing manufacturing facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(6)[~~(4)~~] With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority, the authority may by final approval designate an eligible company to be an approved company.

Section 2. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. Subject to the inclusion of the mandatory provisions set forth below, the terms and provisions of each financing agreement shall be determined by negotiations between the authority and the approved company.

(1) If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:

(a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(d) 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect, which period of time shall commence for purposes of the following upon the date of the financing agreement.

a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(e) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.

(f) The financing agreement shall provide in substance that:

1. It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and

2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents in default; and

a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;

b. Pursue any remedy provided under the financing agreement or other such documents;

c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;

d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and

e. Pursue any other remedy at law to which it appears entitled.

3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.

(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:

(a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:

1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or

2. Fifteen (15) years from the activation date.

3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.

(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) 1. The approved company may be permitted the following during the term of the financing agreement:

a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(d) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year, however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in

prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.

3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.

4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees wages next succeeding the first date when the approved company collected excess assessments.

(e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.

(g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:

1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;

2. Pursue any remedy provided under the financing agreement, including termination thereof; and

3. Pursue any other remedy at law to which it appears entitled.

(3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.

(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040***(5)***[~~(3)~~] by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22-040***(5)***[~~(3)~~] within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

The Committee Substitute to **HB 911** is as follows:

AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its rural economic development assistance program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce

Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years***, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent twelve (12) consecutive months for which unemployment figures are available,*** and shall certify those counties as qualified counties. If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate ***that meets the criteria of this subsection***~~[above the state average]~~, the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 unless the financing agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county.

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of five hundred thousand dollars ($500,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension. No economic development project which will result in the replacement of manufacturing facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing facility located in the same qualified county, and the existing manufacturing facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(4) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority, the authority may by final approval designate an eligible company to be an approved company.

HCR 124, A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force on economic development incentives for existing industry to study new incentive opportunities for manufacturers and businesses.

WHEREAS, in recent years, Kentucky has enjoyed prosperous economic times and record employment levels throughout the Commonwealth; and

WHEREAS, the state receives revenue and other benefits from the continued expansion and retention of industry which must compete with similar enterprises in adjacent states; and

WHEREAS, the competitiveness of Kentucky's businesses is of paramount importance to the Commonwealth's economic future; and

WHEREAS, the current shortage of qualified workers in certain areas of the state provides a significant challenge to employers who wish to expand and grow their businesses; and

WHEREAS, Kentucky's current incentive policies create a disparity between new businesses and existing businesses; and

WHEREAS, several states contiguous to Kentucky offer incentives to existing industries who make notable investments that expand their production without increasing their workforce;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to create the Task Force on Existing Industry Incentives to study the current incentive programs offered to existing industry in Kentucky and compare them with those in surrounding states.

Section 2. Specifically, the Task Force shall focus on incentives offered in contiguous states that assist businesses who increase their productivity but do not have a notable increase in their job base.

Section 3. The Task Force shall analyze the revenue impact of new incentives under various parameters and conditions and the economic benefit of those incentives in the Commonwealth.

Section 4. Staff services to be utilized in completing this study are estimated to cost $25,000. These staff services shall be provided for in the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Substitute to **HCR 124** is as follows:

A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a task force on economic development incentives for existing industry to study new incentive opportunities for manufacturers and businesses.

WHEREAS, in recent years, Kentucky has enjoyed prosperous economic times and record employment levels throughout the Commonwealth; and

WHEREAS, the state receives revenue and other benefits from the continued expansion and retention of industry which must compete with similar enterprises in adjacent states; and

WHEREAS, the competitiveness of Kentucky's businesses is of paramount importance to the Commonwealth's economic future; and

WHEREAS, the current shortage of qualified workers in certain areas of the state provides a significant challenge to employers who wish to expand and grow their businesses; and

WHEREAS, several states contiguous to Kentucky offer incentives to existing industries who make notable investments that expand their production without increasing their workforce;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to create the Task Force on Existing Industry Incentives to study the current incentive programs offered to existing industry in Kentucky and compare them with those in surrounding states. No later than July 1, 1999, the Task Force on Existing Industry Incentives shall report its findings and recommendations, including proposals for legislation, to the Legislative Research Commission.

Section 2. Specifically, the Task Force shall focus on incentives offered in contiguous states that assist businesses who increase their productivity but do not have a notable increase in their job base.

Section 3. The Task Force shall analyze the revenue impact of new incentives under various parameters and conditions and the economic benefit of those incentives in the Commonwealth. The Task Force on Existing Industry Incentives shall seek information and testimony from the Kentucky Industrial Development Council, Inc.; the Kentucky Chamber of Commerce, Inc.; the Kentucky Chamber of Commerce Executives; and the Kentucky Cabinet for Economic Development.

Section 4. Staff services to be utilized in completing this study are estimated to cost $25,000. These staff services shall be provided for in the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee on Elections and Constitutional Amendments reported **HB 594,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 594, AN ACT relating to voter registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 116.155 is amended to read as follows:

All forms pertaining to registration shall be prescribed and furnished by the State Board of Elections. The registration form shall include the voter's name; date of birth; ***age; race;*** Social Security number, if any; mailing and residence addresses, if different; and such other information as the State Board of Elections may deem necessary. No person shall be denied the right to register because of the failure to include his Social Security number. All forms which require a voter's signature shall provide for verification by the signer thereof.

Section 2. KRS 117.025 is amended to read as follows:

(1) The State Board of Elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board shall also appoint an assistant to the director, who shall be of a different political party than the director. The salaries of the director and his assistant shall be set by the board.

(2) The State Board of Elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including legal counsel and a training officer to provide assistance to the county clerks and the county boards of elections in their training of precinct election officers.

(3) The board shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct;

(b) For each primary election, furnish each county clerk with a master list of all registered voters in the county, together with three (3) signature rosters of all registered voters in each precinct of the county according to party affiliation, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each primary election;

(c) For each regular election, furnish each county clerk with a master list of all registered voters in the county, together with one (1) signature roster of all registered voters in each precinct of the county on which each voter's party affiliation is identified, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each regular election;

(d) Maintain all information furnished to the board relating to the inclusion or deletion of names from the rosters for four (4) years;

(e) Furnish, at a reasonable price, the state central executive committee of each political party qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(f) Purchase, lease or contract for the use of equipment necessary to properly carry out its duties under the provisions of this chapter and KRS Chapters 116 and 118;

(g) Secure information from any source which may assist the board in carrying out the purposes of this section;

(h) Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The State Board of Elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable price. The board shall not furnish precinct lists to persons who intend to use the lists for commercial use***;***

(i) Include information found on the voter registration form on the precinct lists. This information shall include the voter's name; age groups; race; mailing and residence addresses, if different; and such other information as may be included on the voter registration form.

The Committee Substitute to **HB 594** is as follows:

AN ACT relating to voter registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 116.155 is amended to read as follows:

All forms pertaining to registration shall be prescribed and furnished by the State Board of Elections. The registration form shall include the voter's name; date of birth; ***gender; race or ethnic group; choice of political party affiliation;*** Social Security number, if any; ***residence address, with mailing address***[~~mailing and residence addresses,~~] if different; and such other information as the State Board of Elections may deem necessary. No person shall be denied the right to register because of the failure to include his Social Security number. All forms which require a voter's signature shall provide for verification by the signer thereof.

Section 2. KRS 117.025 is amended to read as follows:

(1) The State Board of Elections shall appoint an executive director, who shall be the chief administrative officer for the board. The board shall also appoint an assistant to the director, who shall be of a different political party than the director. The salaries of the director and his assistant shall be set by the board.

(2) The State Board of Elections shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board, including legal counsel and a training officer to provide assistance to the county clerks and the county boards of elections in their training of precinct election officers.

(3) The board shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct;

(b) For each primary election, furnish each county clerk with a master list of all registered voters in the county, together with three (3) signature rosters of all registered voters in each precinct of the county according to party affiliation, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each primary election;

(c) For each regular election, furnish each county clerk with a master list of all registered voters in the county, together with one (1) signature roster of all registered voters in each precinct of the county on which each voter's party affiliation is identified, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each regular election;

(d) Maintain all information furnished to the board relating to the inclusion or deletion of names from the rosters for four (4) years;

(e) Furnish, at a reasonable price, the state central executive committee of each political party qualifying under KRS 118.015 monthly data of all additions, deletions and changes of registration in each precinct of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(f) Purchase, lease or contract for the use of equipment necessary to properly carry out its duties under the provisions of this chapter and KRS Chapters 116 and 118;

(g) Secure information from any source which may assist the board in carrying out the purposes of this section;

(h) Furnish at a reasonable price any and all precinct lists to duly qualified candidates, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question. The State Board of Elections may also furnish the precinct lists to other persons at the board's discretion, at a reasonable price. The board shall not furnish precinct lists to persons who intend to use the lists for commercial use***;***

(i) Include the following information on the precinct lists: each voter's name; age group; gender; race or ethnic group; residence address, with mailing address if different; and choice of political party affiliation.

Section 3. KRS 116.048 is amended to read as follows:

(1) The following agencies are designated as voter registration agencies in accordance with the National Voter Registration Act of 1993:

(a) Agencies that provide benefits under the Aid to Families with Dependent Children, Special Supplemental Food Program for Women, Infants, and Children, Medicaid, or Food Stamps Programs;

(b) Armed Forces recruitment offices;

(c) Other agencies as the Secretary of State shall determine to be providing public assistance; and

(d) Other agencies as the Secretary of State shall determine to be state-funded programs primarily engaged in providing services to persons with disabilities.

(2) A voter registration agency that provides service or assistance in conducting voter registration shall:

(a) Distribute with each application for its service or assistance, and with each recertification, renewal, or change of address form, the office's own voter registration application form that complies with the requirements of Section 7 of Public Law 103-31, the National Voter Registration Act of 1993***, and of Section 1 of this Act***;

(b) Provide a form that includes:

1. The question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

2. If the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

3. Boxes for the applicant to check to indicate whether the applicant would like to register or declines to

register to vote (failure to check either box being deemed to constitute a declination to register for purposes of paragraph (c) of this subsection), together with the statement in close proximity to the boxes and in prominent type, "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

4. The statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

5. The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with __________________.", the blank being filled by the name, address, and telephone number of the appropriate official to whom a complaint should be addressed; and

(c) Provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses assistance.

(3) (a) At each voter registration agency, the following services shall be made available:

1. Distribution of mail voter registration forms;

2. Assistance to applicants in completing voter registration application forms, unless the applicant refuses assistance; and

3. Acceptance of completed voter registration application forms for transmittal to the county clerk of the county of the applicant's voting residence.

(b) If a voter registration agency designated under subsection (1)(d) of this section provides services to a person with a disability at the person's home, the agency shall provide the services described in paragraph (a) of this subsection at the person's home.

(4) A person who provides services described in subsection (3) of this section shall not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display any material indicating the person's political preference or party allegiance;

(c) Make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

(d) Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register to vote has any bearing on the availability of services or benefits.

(5) The State Board of Elections may designate requirements for record keeping and document retention it deems necessary to comply with the National Voter Registration Act of 1993 and the provisions of this chapter.

(6) (a) A completed registration application accepted at a voter registration agency shall be transmitted to the county clerk of the county of the applicant's voting residence or the State Board of Elections not later than ten (10) days after the date of acceptance.

(b) If a registration application is accepted within five (5) days before the last day for registration to vote in an election, the application shall be transmitted to the county clerk of the county of the applicant's voting residence or the State Board of Elections not later than five (5) days after the date of acceptance.

Section 4. KRS 186.412 is amended to read as follows:

(1) A person may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed a valid instruction permit for at least one hundred eighty (180) days. The person shall apply for an operator's license in the office of the circuit clerk of the county where he lives. The application form shall require the applicant's full legal name and signature, date of birth, Social Security number, sex, present resident address, ***race or ethnic group,*** other information necessary to permit the application to also serve as an application for voter registration, and brief physical description of the applicant. The application shall state:

(a) If the applicant has previously been licensed as an operator and by what state;

(b) If a license is canceled, suspended, revoked, or refused; and

(c) Other information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(2) The Transportation Cabinet shall issue a plastic laminated operator's license bearing a color photograph of the applicant. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413. When taking the

photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The plastic laminated operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. The license shall also designate by color coding and use the phrase "under (21)" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(3) After January 1, 1996, a person may, before the renewal date for his operator's license, request a circuit clerk to issue a new plastic laminated operator's license that does not contain the person's Social Security number. The person shall be charged the fee established by KRS 186.531 for renewing an operator's license if the person requests a license pursuant to this subsection.

(4) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(5) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. The temporary license shall be valid in lieu of the permanent license during the certification period and shall be destroyed upon receipt of the permanent operator's license.

(6) The circuit clerk shall issue a color photo nondriver's identification card to any person who resides in the county who applies in person in the office of the circuit clerk. A nondriver's identification card shall be subject to the provisions of subsection (2) of this section. An application for a nondriver's identification card shall be accompanied by a signed Social Security card and a birth certificate, or other proof of the applicant's date of birth that is satisfactory to the clerk. The application shall require the applicant to provide his most current resident address that may include, but is not limited to, a mailing address, post office box, or an address provided on a voter registration card. If an applicant for a nondriver's identification card is under the age of twenty-one (21), the applicant's most current resident address shall be required unless a current resident address is not available, in which case a mailing address, post office box, or an address provided on a voter registration card may be used. Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal possessor of the address provided on the application form, the applicant shall swear that he has permission from the legal possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(7) Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature." If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.

(8) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

   (a) Blood type;

   (b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

   (c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.

(9) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(10) An operator's license pursuant to this section shall be designated a Class D license.

(11) A person shall not have more than one (1) license.

The Committee on Tourism Development and Energy reported **HB 700,** with Committee Amendment attached thereto, and **HB 613,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 700, AN ACT relating to the Public Service Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.023 is amended to read as follows:

(1) The provisions of this section shall apply to any construction project undertaken by a water association, commission, district, or combined water, gas or sewer district formed under KRS Chapter 74 or 273, which is financed in whole or in part under the terms of an agreement between the water utility and the ***United States***[~~U.S.~~] Department of Agriculture or the ***United States***[~~U.S.~~] Department of Housing and Urban Development. Because federal financing of such projects entails prior review and oversight by the federal agency and obligates the utility to certain actions, and because conflicting requirements by the federal agency and the Public Service Commission may place the water utility in an untenable position and delay or jeopardize such projects, it is declared to be the policy of the Commonwealth that such agreements shall be accepted by the Public Service Commission, and that the commission shall not prohibit a water utility from fulfilling its obligations under such an agreement.

(2) ***(a)*** No agreement between a water utility and federal agency under this section shall take effect until thirty (30) days after such agreement, together with necessary applications and documentation, is filed with the commission, unless the commission acts within a lesser time. The commission in its administrative regulations shall list the specific documents required to be filed under this subsection.

(b) The thirty (30) day time limitation set out in paragraph (a) of this subsection begins to run when an application is delivered to the commission's office during its regular office hours. Requests for the furnishing of additional data shall not delay processing of the application beyond the thirty (30) day time limitation. The commission's statutory overview of water districts is not limited in any other respect.

(3) ***(a)*** The commission shall review the project and the agreement, may recommend changes to the utility and the federal agency, but shall not modify or reject any portion of the agreement on its own authority. The commission shall issue a certificate of necessity and convenience and such other orders as may be required to implement the terms of the agreement no later than thirty (30) days after filing.

(b) If any federal or state agency acting under arrangements with the United States Department of Agriculture or the United States Department of Housing and Urban Development makes a grant agreement with any grantee, the agreement shall have the same full force and effect as if it were made directly with the grantee. Because a water district may not apply for a grant itself, a water district may contract with any government agency for any assistance in implementing the project. In this event, all provisions of this section shall apply to the application of the water district.

(4) The commission shall not prohibit the inclusion of any cost or the use of any accounting procedure in reviewing or setting the rates of the utility if such cost or procedure is required as a condition for federal financing of a construction project under an approved agreement between the water utility and federal agency.

(5) If the federal agency approves a surcharge to the water bills of customers who receive service through an extension of water facilities under this section, which is in lieu of an assessment against the customer for the cost of the extension, then the Public Service Commission shall allow collection of the surcharge to continue for the period of years for which the surcharge was established.

The Committee Amendment No. 1 to **HB 700** is as follows:

On page 2, line 1 after "water" by deleting "***districts***" and inserting "***utilities***" in lieu thereof; and

On page 2, line 12, after "***water***" by deleting "***district***" and inserting "***utility***" in lieu thereof; and

On page 2, line 13, after "***water***" by deleting "***district***" and inserting "***utility***" in lieu thereof; and

On page 2, line 15, after "***water***" by deleting "***district***" and inserting "***utility***" in lieu thereof.

HB 613, AN ACT relating to outdoor advertising.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.830 is amended to read as follows:

As used in KRS 177.830 to 177.890, unless the context requires otherwise:

(1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 to 177.310;

(2) "Interstate highway" means any highway, road, street, access facility, bridge, or overpass which is designated as a portion of the national system of interstate and defense highways as may be established by law, or as may be so designated by the Transportation Cabinet in the joint construction of the system by the Transportation Cabinet and the United States

Department of Transportation, Bureau of Public Roads;

(3) "Federal-aid primary highway" means any highway, road, street, appurtenant facility, bridge, or overpass which is designated as a portion of the federal-aid primary highway system as may be established by law or as may be so designated by the Transportation Cabinet and the United States Department of Transportation;

(4) "Turnpike" means any road or highway or appurtenant facility constructed pursuant to the provisions of KRS 177.390 to 177.570, or pursuant to the provisions of any other definition of "turnpike" in the Kentucky Revised Statutes, or any other highway, road, parkway, bridge, or street upon which a toll or fee is charged for the use of motor vehicular traffic;

(5) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction;

(6) "Highway or highways" as used in KRS 177.830 to 177.890 means limited access highway, interstate highway, federal-aid primary highway, or turnpike as defined in KRS 177.830 to 177.890;

(7) "Commercial or industrial zone" adjacent to a federal-aid primary highway means an area zoned to permit business, commerce or trade pursuant to lawful ordinance or regulation;

(8) "Unzoned commercial or industrial area" adjacent to ***an interstate or***[~~a~~] federal-aid primary highway means an area which is not zoned by state or local law, regulation, or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the secretary of the Transportation Cabinet. Each side of the highway will be considered separately in applying this definition--all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway;

(9) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(c) Activities normally or regularly in operation less than three (3) months of the year;

(d) Transient or temporary activities;

(e) Activities not visible from the main traveled way;

(f) Activities more than ***three hundred (***300***)*** feet from the nearest edge of the right-of-way;

(g) Activities conducted in a building principally used as a residence;

(h) Railroad tracks and minor sidings.

(10) "Urban areas" means those areas having a population of five thousand (5,000) or more which have been designated by the United States Department of Commerce, Bureau of the Census, as an urban area. A list of cities which have designated urban areas shall be maintained by the Transportation Cabinet, Division of Planning, Frankfort, Kentucky 40622. The Transportation Cabinet shall maintain maps indicating the boundaries of the designated areas. The maps shall be available from the Transportation Cabinet for a fee not to exceed five dollars ($5.00).

Section 2. KRS 177.841 is amended to read as follows:

(1) Except as otherwise provided in KRS 177.830 to 177.890, the erection or maintenance of any advertising device upon or within ***six hundred and sixty (***660***)*** feet of the right of way of any interstate highway or federal-aid primary highway is prohibited.

(2) The erection or maintenance of any advertising device located outside of an urban area and beyond 660 feet of the right-of-way which is legible and/or identifiable from the main traveled way of any interstate highway or federal-aid primary highway is prohibited with the exception of:

(a) Directional and official signs and notices;

(b) Signs advertising the sale or lease of property upon which they are located;[~~ or~~]

(c) Signs advertising activities conducted on the property on which they are located***; or***

(d) Advertising devices located within the jurisdiction of cities, counties, urban-county governments, and charter county governments that have given their approval for advertising devices to be erected, as set forth in Sections 3 to 5 of this Act.

SECTION 3. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby authorizes cities, counties, urban-county governments, and charter county governments of appropriate jurisdiction to enact the provisions set forth in Section 4 of this Act. If adopted, these provisions shall be adopted in their entirety and without amendment. Upon adoption by a city, county, urban-county government, or charter county government of appropriate jurisdiction, no other ordinance shall be enacted by a city, county, urban-county government, or charter county government which relates to the subjects embraced in these sections.

SECTION 4. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

(1) Upon approval by a city, county, urban-county government, or charter county government of appropriate jurisdiction, advertising devices may be erected in areas where an interstate or federal-aid highway bisects a state or county road, without regard to commercial or industrial zoning, where such rights-of-way were acquired subsequent to July 1, 1956, with the following restrictions:

(a) The areas in which advertising devices may be erected shall be within quadrants formed by the intersection of an interstate or federal-aid highway and state or county roads. With the intersection forming the axis, each quadrant shall have as its area the quadrangle formed by the artificial lines created by measuring a distance not to exceed six hundred and sixty (660) feet of the nearest edge of the right-of-way;

(b) The minimum distance between advertising devices shall be five hundred (500) feet;

(c) Advertising devices shall not be erected within one hundred and fifty (150) feet from the outer edge of a federal-aid or interstate highway or a state or county road; and

(d) Advertising devices shall comply with all requirements pertaining to prohibited advertising devices, size of advertising devices, and lighting of advertising devices as set forth in KRS 177.863.

(2) A city, county, urban-county government, or charter county government that has appropriate jurisdiction over areas created by this section may assess sign owners an initial application fee of one hundred dollars ($100) per advertising device and an annual fee of twenty dollars ($20) per advertising device.

SECTION 5. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of highways shall issue permits for the erection and maintenance of advertising devices in counties where the city, county, urban-county government, or charter county government of appropriate jurisdiction has granted approval and agreed to the requirements of Section 4 of this Act.

(2) The commissioner of highways shall assess owners of advertising devices an initial permit application fee of two hundred dollars ($200) per advertising device and an annual permit fee of twenty dollars ($20) per advertising device.

(3) The commissioner of highways shall promulgate administrative regulations, in accordance with KRS Chapter 13A, that shall allow owners of advertising devices that comply with the provisions of Section 4 of this Act to cut, trim, or otherwise cause to be removed vegetation from within the limits of highway rights-of-way that cause advertising devices to be partially or completely obscured from visibility from federal-aid highways or interstates. These regulations shall require that:

(a) No person shall trim, prune, or remove vegetation from a right-of-way without a permit obtained from the Transportation Cabinet;

(b) The permit procedure shall include an application for the issuance of a permit to trim or remove vegetation. The application shall provide for a selective vegetation control plan in accordance with accepted horticultural practice and shall include a diagram that illustrates the requested limits of the trimming, pruning, or removal of selected vegetation;

(c) The selective vegetation control plan shall be reviewed by the Transportation Cabinet and shall include an on-site inspection by the applicant's landscape personnel and a representative of the cabinet. The results of the inspection shall be included in the permit application;

(d) The permit shall require a performance bond in an amount determined by the cabinet to run concurrently with the permit;

(e) The cabinet shall approve or deny the application within thirty (30) days of receipt of the application;

(f) A permit shall remain in effect for twelve (12) months and may be issued for multiple sites; and

(g) The permit shall require photographs of the site and a closure letter from the company stating that the work has been completed in accordance with the application filed.

(4) Advertising devices erected in exempted areas approved by cities, counties, urban-county governments, or charter county governments of appropriate jurisdiction, which comply with the provisions of Section 4 of this Act and administrative regulations promulgated by the commissioner of the Department of Highways in accordance with KRS Chapter 13A, shall not constitute a violation of any other statute relating to outdoor advertising.

(5) The commissioner of highways shall amend all administrative regulations, in accordance with KRS Chapter 13A,

affecting advertising devices to comply with the provisions of Sections 3 to 5 of this Act by no later than October 1, 1998.

Section 6. In accordance with the provisions of KRS 177.890, the commissioner of highways shall, within one hundred and twenty (120) days of the effective date of this Act, enter into negotiations with the United States Secretary of Transportation for the purpose of amending existing agreements between the Commonwealth and the federal government that pertain to the control of outdoor advertising to incorporate the provisions of this Act. These negotiations shall be concluded within a reasonable period of time.

The Committee Substitute to **HB 613** is as follows:

AN ACT relating to outdoor advertising.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.830 is amended to read as follows:

As used in KRS 177.830 to 177.890, unless the context requires otherwise:

(1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 to 177.310;

(2) "Interstate highway" means any highway, road, street, access facility, bridge, or overpass which is designated as a portion of the national system of interstate and defense highways as may be established by law, or as may be so designated by the Transportation Cabinet in the joint construction of the system by the Transportation Cabinet and the United States Department of Transportation, Bureau of Public Roads;

(3) "Federal-aid primary highway" means any highway, road, street, appurtenant facility, bridge, or overpass which is designated as a portion of the federal-aid primary highway system as may be established by law or as may be so designated by the Transportation Cabinet and the United States Department of Transportation;

(4) "Turnpike" means any road or highway or appurtenant facility constructed pursuant to the provisions of KRS 177.390 to 177.570, or pursuant to the provisions of any other definition of "turnpike" in the Kentucky Revised Statutes, or any other highway, road, parkway, bridge, or street upon which a toll or fee is charged for the use of motor vehicular traffic;

(5) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction;

(6) "Highway or highways" as used in KRS 177.830 to 177.890 means limited access highway, interstate highway, federal-aid primary highway, or turnpike as defined in KRS 177.830 to 177.890;

(7) "Commercial or industrial zone" adjacent to a federal-aid primary highway means an area zoned to permit business, commerce or trade pursuant to lawful ordinance or regulation;

(8) "Unzoned commercial or industrial area" adjacent to ***an interstate or***~~[a]~~ federal-aid primary highway means an area which is not zoned by state or local law, regulation, or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the secretary of the Transportation Cabinet. Each side of the highway will be considered separately in applying this definition--all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway;

(9) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(c) Activities normally or regularly in operation less than three (3) months of the year;

(d) Transient or temporary activities;

(e) Activities not visible from the main traveled way;

(f) Activities more than ***three hundred (***300***)*** feet from the nearest edge of the right-of-way;

(g) Activities conducted in a building principally used as a residence;

(h) Railroad tracks and minor sidings.

(10) "Urban areas" means those areas having a population of five thousand (5,000) or more which have been designated by

the United States Department of Commerce, Bureau of the Census, as an urban area. A list of cities which have designated urban areas shall be maintained by the Transportation Cabinet, Division of Planning, Frankfort, Kentucky 40622. The Transportation Cabinet shall maintain maps indicating the boundaries of the designated areas. The maps shall be available from the Transportation Cabinet for a fee not to exceed five dollars ($5.00).

Section 2. KRS 177.841 is amended to read as follows:

(1) Except as otherwise provided in KRS 177.830 to 177.890, the erection or maintenance of any advertising device upon or within *six hundred sixty* (660) feet of the right-of-way of any interstate highway or federal-aid primary highway is prohibited.

(2) The erection or maintenance of any advertising device located outside of an urban area and beyond six hundred sixty (660) feet of the right-of-way which is legible and/or identifiable from the main traveled way of any interstate highway or federal-aid primary highway is prohibited with the exception of:

(a) Directional and official signs and notices;

(b) Signs advertising the sale or lease of property upon which they are located;[~~or~~]

(c) Signs advertising activities conducted on the property on which they are located*; or*

(d) Advertising devices located within the jurisdiction of cities, counties, urban-county governments, and charter county governments that have given their approval for advertising devices to be erected, as set forth in Sections 3 to 5 of this Act.

SECTION 3. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby authorizes cities, counties, urban-county governments, and charter county governments of appropriate jurisdiction to enact the provisions set forth in Section 4 of this Act. If adopted, these provisions shall be adopted in their entirety and without amendment. Upon adoption by a city, county, urban-county government, or charter county government of appropriate jurisdiction, no other ordinance shall be enacted by a city, county, urban-county government, or charter county government which relates to the subjects embraced in these sections.

SECTION 4. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

(1) Upon approval by a city, county, urban-county government, or charter county government of appropriate jurisdiction, advertising devices may be erected in areas where an interstate bisects a state or county road, without regard to commercial or industrial zoning with the following restrictions:

(a) The areas in which advertising devices may be erected shall be within quadrants formed by the intersection of an interstate and state or county roads. With the intersection forming the axis, each quadrant shall have as its area the quadrangle formed by the artificial lines created by measuring a distance not to exceed six hundred sixty (660) feet of the nearest edge of the right-of-way;

(b) The minimum distance between advertising devices shall be one thousand (1,000) feet;

(c) Advertising devices shall not be erected within one hundred fifty (150) feet from the outer edge of an interstate highway or a state or county road; and

(d) Advertising devices shall comply with all requirements pertaining to prohibited advertising devices, size of advertising devices, and lighting of advertising devices as set forth in KRS 177.863.

(2) A city, county, urban-county government, or charter county government that has appropriate jurisdiction over areas created by this section may assess sign owners an initial application fee of one hundred dollars ($100) per advertising device and an annual fee of twenty dollars ($20) per advertising device.

SECTION 5. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of highways shall issue permits for the erection and maintenance of advertising devices in counties where the city, county, urban-county government, or charter county government of appropriate jurisdiction has granted approval and agreed to the requirements of Section 4 of this Act.

(2) The commissioner of highways shall assess owners of advertising devices an initial permit application fee of two hundred dollars ($200) per advertising device and an annual permit fee of twenty dollars ($20) per advertising device.

(3) The commissioner of highways shall promulgate administrative regulations, in accordance with KRS Chapter 13A, that shall allow owners of advertising devices that comply with the provisions of Section 4 of this Act to cut, trim, or otherwise cause to be removed vegetation from within the limits of highway rights-of-way that cause advertising devices to be partially or completely obscured from visibility from interstates. These regulations shall require that:

(a) No person shall trim, prune, or remove vegetation from a right-of-way without a permit obtained from the Transportation Cabinet;

(b) The permit procedure shall include an application for the issuance of a permit to trim or remove vegetation.

The application shall provide for a selective vegetation control plan in accordance with accepted horticultural practice and shall include a diagram that illustrates the requested limits of the trimming, pruning, or removal of selected vegetation;

(c) The selective vegetation control plan shall be reviewed by the Transportation Cabinet and shall include an on-site inspection by the applicant's landscape personnel and a representative of the cabinet. The results of the inspection shall be included in the permit application;

(d) The permit shall require a performance bond in an amount determined by the cabinet to run concurrently with the permit;

(e) The cabinet shall approve or deny the application within thirty (30) days of receipt of the application;

(f) A permit shall remain in effect for twelve (12) months and may be issued for multiple sites; and

(g) The permit shall require photographs of the site and a closure letter from the company stating that the work has been completed in accordance with the application filed.

(4) Advertising devices erected in exempted areas approved by cities, counties, urban-county governments, or charter county governments of appropriate jurisdiction, which comply with the provisions of Section 4 of this Act and administrative regulations promulgated by the commissioner of the Department of Highways in accordance with KRS Chapter 13A, shall not constitute a violation of any other statute relating to outdoor advertising.

(5) The commissioner of highways shall amend all administrative regulations, in accordance with KRS Chapter 13A, affecting advertising devices to comply with the provisions of Sections 3 to 5 of this Act by no later than October 1, 1998.

Section 6. In accordance with the provisions of KRS 177.890, the commissioner of highways shall, within one hundred and twenty (120) days of the effective date of this Act, enter into negotiations with the United States Secretary of Transportation for the purpose of amending existing agreements between the Commonwealth and the federal government that pertain to the control of outdoor advertising to incorporate the provisions of this Act. These negotiations shall be concluded within a reasonable period of time.

Calendar

HB 746, HB 886, HCR 97, HJR 109, HR 111, HJR 116, HJR 118, SB 211, SJR 76, HB 285, HB 561, HB 603, HB 652, HB 756, HB 785, HCR 103, HCR 114, HCR 126, SB 28, SB 68, HB 509, HB 595, HB 659, HB 665, HB 666, HB 702, HB 796, HB 880, HB 891, SB 76, HB 717, HB 765, HJR 121, SB 18, SB 42, SB 59, SB 253, HB 554, HB 596, HB 646, HB 727, HB 732, HB 768, HB 789, HB 853, HB 887, SB 75, SB 142, HB 320, HB 321, HJR 34, and **HJR 36** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 753**, by Representative Gray:

On page 2, after line 14, insert:

"Section 2. KRS 6.521 is amended to read as follows:

(1) As of July 1 of each year, the board of trustees of the Kentucky Judicial Form Retirement System shall recompute the monthly benefits of persons then receiving benefits under the Legislators' Retirement Plan, by using the following formula: three and one-half percent (3.5%) times fifty-five percent (55%) of the final compensation of the office in which the credit was earned for a person retiring as of the recomputation date, times the number of years of service credit (not to exceed twenty-eight (28) years). In making the recomputation, the same reduction factor, in case of an actuarially reduced benefit or a surviving spouse's benefit, shall be used as was used in determining the benefit then being received. If the benefit as recomputed in accordance with this section is higher than the benefit then being received, the recomputed benefit shall thereafter be paid monthly, commencing as of the date specified for the recomputation, subject to future adjustment at ensuing recomputations in accordance with this section.

(2) Effective August 1, 1998, and on July 1 of each year thereafter, a recipient of a monthly pension benefit from the Legislators' Retirement Plan shall have his/her benefit increased by the percentage increase in the annual average

of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the State's appropriation to the Legislators' Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1998, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 6.505. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands."

Floor Amendment No. 2 Title to **HB 753**, by Representative Gray:

By amending the title to read as follows: "AN ACT relating to retirement."

Floor Amendment No. 1 to **SB 221**, by Representative Haydon:

On page 1, after line 14, by inserting the following:

"*(3) The responsibility for riverports shall be established within the Transportation Cabinet to provide oversight on development activities involving riverport authorities. The cabinet shall be responsible for managing a study that will develop a long-range capital improvements plan for Kentucky's riverports that shall include, but not be limited to:*

(a) Guidelines for ground transportation access to riverports;

(b) A model for determining the economic impact of riverports; and

(c) A blueprint for creating long-term funding mechanisms for riverports.".

Floor Amendment No. 1 to **HB 880**, by Representative Haydon:

On page 1, line 10, after the word "*after*" by adding "*the Kentucky Workers' Compensation Funding Commission has made a determination that*"; and on line 22, after the word "*claims*" by adding "*that arise under this section including claims*"; and on line 23, after the word "*barred*" and before the "*.*" by adding "*against the Kentucky Workers' Compensation Funding Commission and any carrier complying with this section*".

Floor Amendment No. 1 to **HB 756**, by Representative Crenshaw:

After the enacting clause, by deleting all text from page 1, line 1 through page 4, line 14 and inserting in lieu thereof:

"Section 1. KRS 186.040 is amended to read as follows:

(1) Upon receiving the application and fee, the county clerk shall issue to the owner a certificate of registration containing the information required by subsection (2) of this section and a registration plate. If the cabinet finds that there is a shortage of materials suitable for making plates, or that a substantial saving will result, it may require by regulation with the approval of the Governor that previously issued plates continue to be used for a designated period. For services performed, the owner shall pay the county clerk the sum of three dollars ($3) for each registration, or if the registration exceeds a twelve (12) month period, the clerk shall receive a fee of four dollars ($4).

(2) The certificate of registration shall contain the registration number, the name and post office address of the owner, and such other information as the cabinet may require.

(3) Any person requesting a certificate of registration or renewal of registration of any type of motor vehicle shall have the opportunity to donate one dollar ($1) to the child care assistance account. The one dollar ($1) donation shall be added to the regular fee for vehicle registration. One donation may be made per issuance or renewal of vehicle registration. Donation to the child care assistance account shall be voluntary and may be refused by the applicant at the time of the issuance or renewal of any vehicle registration.

(4) The county clerk may retain five percent (5%) of fees collected for the child care assistance account under subsection (3) of this section. The remaining funds shall be deposited into a trust and agency account in the State Treasury to the credit of the Cabinet for Human Resources for the exclusive use as follows:

(a) Funds shall be made available to the agencies that administer child care subsidy funds; and

(b) Funds shall be used for working parents whose income is between one hundred thirty-three percent (133%) and one hundred fifty percent (150%) of the federal poverty level.

Section 2. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for

Human Resources in subsection (4) of Section 1 shall be changed to the Cabinet for Families and Children."

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 5, SB 65, SB 66, SB 78, SB 103, SB 114, HB 320, HB 321, HJR 34, HJR 36, HB 285, HB 554, HB 596, HB 603, HB 646, HB 659, HB 665, HB 717, HB 727, HB 732, HB 756, HB 768, HB 789, HB 880, HCR 103, HJR 109, HR 111, HCR 114, HJR 116, HJR 121, HB 78, HB 211, HB 377, HB 447,** and **HB 658** have been posted for passage in the Orders of the Day for March 12, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 605, HB 709, HB 652**

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 741**, by Representative Marcotte:

On page 4, after line 5, insert a new Section 2 to read as follows:

"Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, ~~[189.110,]~~ 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. ***A court of competent jurisdiction shall dismiss a first offense violation against a person convicted of violating Section 1 of this Act if the person provides the court proof that the sunscreening material applied to a motor vehicle's windows has been reduced to comply with the provisions of Section 1 of this Act.*** Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, ~~may be~~ referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.".

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Majority Caucus meeting in Room 327 and a Minority Caucus meeting in Room 316 . Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

HB 15, HB 129, HB 142, HB 370, HB 415, HJR 2 delivered to the Senate and signed by the President. Delivered to the Governor on March 11, 1998 at 2:28 p.m.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HCR 125**, by Representative Zimmerman:

On page 1, at the end of the last "whereas" clause, by inserting the following:

"and

WHEREAS, the General Assembly needs information on the feasibility and cost of establishing Fishtrap Lake as a Kentucky State Park in order to objectively and responsibly determine whether to proceed with this designation;"; and

On page 1, by deleting lines 1 through 4 in their entirety and by inserting in lieu thereof the following:

"Section 1. There is created a Task Force on Fishtrap Lake of the Legislative Research Commission to study the feasibility and cost of establishing Fishtrap Lake as a Kentucky State Park. The Task Force shall consist of:

(a) The secretary of the Tourism Cabinet or her designee;

(b) The commissioner of the Department of Parks or his designee;

(c) The Pike County Judge/Executive or her designee;

(d) Two (2) members of the House of Representatives appointed by the Speaker of the House, one (1) of whom the Speaker shall designate as co-chair of the Task Force; and

(e) Two (2) members of the Senate appointed by the President of the Senate, one (1) of whom the President shall designate as co-chair of the Task Force.

Section 2. The Task Force on Fishtrap Lake shall report its findings and recommendations to the Interim Joint Committee on Economic Development and Tourism not later than the interim committee's regularly scheduled meeting in September, 1999.

Section 3. Staff services shall be provided by the Legislative Research Commission and are estimated to cost $15,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission."; and

On page 1, line 5, by changing "Section 2." to "Section 4.".

Floor Amendment No. 3 to **HB 211**, by Representative Nunn:

On page 1, line 3, after "***(1)***" by inserting "***If a water supply system requests and receives authorization from the Division of Water to designate a prohibition area, no***" and by deleting "*No*" and

On page 1, line 4, after "*intake*" by inserting "*unless an extension of the area of prohibition is requested and granted under subsection (3) of this section*"; and

On page 1, line 6, after "*located.*" by inserting "*The division shall authorize a water supply system to designate a prohibition area if circumstances are demonstrated justifying the designation. The water supply system shall be responsible for posting*" and by deleting "*The Division of Water shall post*" and

after line 7, by inserting:

"*(3) The division shall allow water supply systems with intakes on lake waters of this state to request that the prohibition on mooring or anchoring be extended beyond one hundred (100) feet but no farther than three hundred (300) feet. The division may grant a request if the water supply system demonstrates circumstances that justify extending the area of prohibition. The division shall inform the Department for Fish and Wildlife Resources when an area of prohibition is designated or a request to extend an area of prohibition is granted.*

(4) Private or commercial docks shall be exempt from the provisions of subsection (1) if this section.".

Floor Amendment No. 2 to the Committee Substitute to **HB 709**, by Representative Nesler:

On page 34, below line 10, to insert the following:

"SECTION 33. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) A county, urban-county, or charter county may, by ordinance, regulate a swine feeding operation.

(2) The county, urban-county, or charter county ordinance regulating a swine feeding operation may be stricter than the provisions of Sections 1 to 29 of this Act and may cover topics not included in the provisions of Sections 1 to 29 of this Act.

(3) No county, urban-county, or charter county shall adopt an ordinance relating to a swine feeding operation containing a provision that is less strict than the provisions of Sections 1 to 29 of this Act.".

Floor Amendment No. 3 to the Committee Substitute to **HB 709**, by Representative Nesler:

On page 1, beginning with line 1, through page 34, line 10, by deleting all intervening language and inserting in lieu thereof:

"Section 1. Notwithstanding any vote of any special, statutory, or standing committee of the General Assembly, 401 KAR 5:008 as filed with the Legislative Research Commission by the Natural Resources and Environmental Protection Cabinet on February 13, 1998, and 401 KAR 5:001 as filed with the Legislative Research Commission on December 15, 1997, are hereby confirmed, and shall have the full force and effect of any administrative regulation that has taken effect pursuant to KRS Chapter 13A, and shall remain in effect until the cabinet chooses to amend them pursuant to state or federal law.".

Floor Amendment No. 4 to the Committee Substitute to **HB 709**, by Representative Nesler:

On page 16, line 14, after "*operation*", by inserting "*and by the owner of the swine, if different from the owner or operator of the swine feeding operation*"; and

On page 25, line 27, after "*.*", by inserting "*For permit applications, if the owner or operator of the swine feeding operation is not the owner of the swine, the application shall also be signed by the swine owner. All parties signing the application shall be liable for complying with the conditions of the permit.*".

Floor Amendment No. 5 Title to the Committee Substitute to **HB 709**, by Representative Nesler:

"by amending the title to read as follows: AN ACT relating to water quality."

Orders of the Day

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Burch moved the adoption of the following **Legislative Citation No. 146**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Disability Awareness Month. The members of this august body are delighted to join with Representative Tom Burch in recognizing March as Disability Awareness Month and in proclaiming the sentiment that the Commonwealth of Kentucky has chosen as its theme, "People with Disabilities Are Opening Doors Everywhere." The 1998 Kentucky General Assembly expresses its sincere pride in the efforts that those with disabilities have made in order to prosper and succeed in today's society, taking full advantage of the many opportunities that were never before thought possible. The exceptional strides made by these individuals are both laudable and worthy of note. The Kentucky House of Representatives is delighted to hereby pay tribute to these valued citizens of this Commonwealth and the extraordinary progress that they have endeavored so ardently to attain. **Legislative Citation No. 146** was adopted without objection.

HB 489, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved the adoption of the Committee Substitute to **HB 489**. Agreed.

Representative Miller moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 489**. Agreed.

Representative Miller moved that **HB 489**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 11, 1998 roll call on **HB 489** - Appendix.) **HB 489**, by way of Committee Substitute as amended, was passed. Representative Miller moved the adoption of Floor Amendment No. 2 Title to the Committee Substitute to **HB 489**. Agreed; and the title was agreed to. Representative Miller moved that the vote by which **HB 489**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 Title to **HCR 125**, by Representative Zimmerman:

By changing the title to "A CONCURRENT RESOLUTION creating a task force to determine the feasibility and cost of establishing Fishtrap Lake as a Kentucky State Park."

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 159** and **HB 390** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:27 p.m.) **HB 159** and **HB 390** delivered to the Senate and signed by the President. Delivered to the Governor on March 11, 1998 at 3:38 p.m.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 765**, by Representative Gooch:

On page 2, line 1, after "***investigation***" by inserting "***. In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, the application shall include a plan to prevent erosion and sedimentation***".

Floor Amendment No. 2 to the Committee Substitute to **HB 324**, by Representative Nunn:

On page 1, line 4 after "***means***" by inserting a "***:***" and by placing an "***(a)***" before "***any***"; and

On page 1, line 5, after "***facility,***" by inserting "***other than a hospital,***"; and

On page 1, line 13, by deleting "***(a)***" and inserting in lieu thereof "***1.***"; and

On page 1, line 15, by deleting "***(b)***" and inserting in lieu thereof "***2.***"; and

On page 1, line 17, by deleting "***(c)***" and inserting in lieu thereof "***3.***"; and

On page 1, line 18 after the "***;***" by inserting "***or***"; and

On page 1, after line 18 but before line 19 by adding the following:

"***(b) Any acquisition by a person or persons of an ownership or controlling interest in any hospital, whether for profit or nonprofit, and whether by purchase, merger, transfer, exchange, option, lease, gift or otherwise, which results in a change of ownership or control of twenty percent (20%) or greater or which results in the acquiring person holding a fifty percent (50%) or greater interest in the ownership or control of a hospital;*** "; and

On page 2, line 10, after "***foundation***" by inserting "***except that approval shall be required in all cases when an acquisition of a hospital meeting the requirements established in Section 1 of this Act is proposed***"; and

On page 3, line 22, after "***facility***" by inserting "***or hospital***"; and

On page 4, line 16, after "***facility***" by inserting "***or hospital***"; and

On page 4, line 19, after "***facilities***" by inserting "***or hospitals***"; and

On page 4, line 21, after "***facility***" by inserting "***or hospital***"; and

On page 5, line 11, after "***facility***" by inserting "***or hospital***"; and

On page 5, line 14, after "***taken***" by inserting "***, in the case of a nonprofit healthcare facility,***"; and

On page 5, line 14, after "***assets,***" by inserting "***and to***"; and

On page 5, line 16, after "***and***" by inserting "***in the case of both nonprofit healthcare facilities, and hospitals, to***"; and

On page 5, line 19, after "***Statutes***" by inserting "***;***"; and

On page 5, by deleting line 20 in its entirety; and

On page 5, line 21, after "***facility***" by inserting "***or hospital***"; and

On page 6, line 9, after "***Whether***", by inserting "***, in the case of nonprofit health care facilities,***"; and

On page 6, line 16, after "***Whether***", by inserting "***, in the case of nonprofit health care facilities,***"; and

On page 7, line 1, after "***facility,***" by inserting "***or hospital***"; and

On page 7, line 22, after "***facility,***" by inserting "***or hospital***".

Floor Amendment No. 3 to the Committee Substitute to **HB 324**, by Representative Nunn:

On page 1, by deleting lines 4 through 18, in their entirety, and by inserting in lieu thereof, the following:

"***(1) "Acquisition" means any acquisition by a person or persons of an ownership or controlling interest in a nonprofit hospital, whether by purchase, merger, transfer, exchange, option, lease, gift, or otherwise, which results in a change of ownership or control of twenty percent (20%) or greater or which results in the acquiring person or persons holding a fifty percent (50%) or greater interest in the ownership or control of a nonprofit hospital, but "acquisition" does not include the acquisition of an ownership or controlling interest in a nonprofit hospital owned by a nonprofit corporation if the person or persons acquiring an interest in the nonprofit hospital:***

(a) Is a nonprofit corporation having a substantially similar charitable health care purpose as the transferor or is a governmental entity;

(b) Is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. sec. 501(c)(3), or as a governmental entity; and

(c) Will maintain representation from the affected community on the local board;" and

On page 1, line 20, by deleting "***health facilities***" and by inserting in lieu thereof, "***hospitals***"; and

On page 1, line 23, by deleting "***health facilities***" and by inserting in lieu thereof, "***hospitals***"; and

On page 1, by deleting line 25 in its entirety, and by inserting in lieu thereof, the following:

"***(3) "Health care facility" means any hospital as defined under KRS Chapter 216B; and***"; and

On page 2, by deleting line 1 in its entirety; and

On page 2, line 5, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 2, line 9, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 2, line 11, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 3, line 3, by deleting "***health facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 3, line 7, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 3, line 8, by deleting "***facility's***" and by inserting in lieu thereof, "***hospital's***"; and

On page 3, line 11, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 3, line 12, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 3, line 22, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 4, line 7, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 4, line 16, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 4, line 21, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 5, line 3, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 5, line 4, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 5, line 4, by deleting "***health***" the second time it appears; and

On page 5, line 5, by deleting "***care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 5, line 6, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 5, line 11, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 5, line 21, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 6, line 17, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 7, line 1, by deleting "***health facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 7, line 22, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 8, line 5, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 8, line 6, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 8, line 8, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 8, line 10, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 8, line 12, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 8, line 16, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and

On page 8, line 18, by deleting "***health facility***" and by inserting in lieu thereof, "***hospital***".

Orders of the Day (Continued)

HB 682, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Floor Amendment No. 1 to **HB 682**. Agreed.

Representative Clarke moved that **HB 682**, as amended, be passed.

On the roll call the vote was: Yeas 61, Nays 35 (See March 11, 1998 roll call on **HB 682** - Appendix.) **HB 682**, as amended, was passed and the title agreed to. Representative Clarke moved that the vote by which **HB 682**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 49, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bratcher moved the adoption of the Committee Substitute to **HB 49**. Agreed.

Representative Bratcher moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 49**. Agreed.

Representative Bratcher moved that **HB 49**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 2 (See March 11, 1998 roll call on **HB 49** - Appendix.) **HB 49**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Bratcher moved that the vote by which **HB 49**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 633, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. 2 to **HB 633**. Agreed.

Representative Geveden moved that **HB 633**, as amended, be passed.

Representative Anderson moved the adoption of Floor Amendment No. 1 to **HB 633**. Representative Long inquired if Floor Amendment No. 1 to **HB 633** was germane. The Speaker ruled that Floor Amendment No. 1 to **HB 633** was germane. Representative Anderson moved the adoption of Floor Amendment No. 1 to **HB 633**. Rejected.

On the roll call on the passage of **HB 633** the vote was: Yeas 48, Nays 46 (See March 11, 1998 roll call on **HB 633** - Appendix.) **HB 633**, as amended, was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 633**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 6 to **HB 13**, by Representative Marzian:

On page 3, line 6 to insert a "*(1)*" at the beginning of the line; and

On page 3, between lines 13 and 14 to insert

"*(2) If a person has been married three (3) times or more, no marriage license shall be issued.*"

Floor Amendment No. 7 to **HB 13**, by Representative Marzian:

On page 1, between lines 14 and 15, to insert the following:

"*(d) When a person is guilty of a crime involving domestic violence as defined in KRS 403.720. In this case, the marriage is void, and the person who committed the domestic violence is prohibited from marrying again;*" and

On page 1, line 15, to delete "*(d)*" and to insert in lieu thereof "*(e)*"; and

On page 1, line 16, to delete "*(e)*" and to insert in lieu thereof "*(f)*".

On page 3, line 3, to delete "*(e)*" and to insert in lieu thereof "*(f)*"; and

On page 3, line 7, to delete "*(e)*" and to insert in lieu there of "*(f)*"; and

On page 3, line 9, to delete "*(e)*" and to insert in lieu thereof "*(f)*"; and

On page 3, line 16, to delete "*(e)*" and to insert in lieu thereof "*(f)*".

Floor Amendment No. 1 to **SB 320**, by Representative P. Clark:

On page 2, after line 26, by adding the following:

"SECTION 2. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 61.702 or any other statute to the contrary, the Kentucky Retirement Systems shall pay one hundred percent (100%) of the premium, or a reduced amount of the total premium based on the service formula in KRS 61.702(3)(a), for the insurance coverage selected by each recipient of a retirement allowance who was a member of the State Police Retirement System or in a hazardous position, as defined in KRS 61.592, in the Kentucky Employees Retirement System or the County Employees Retirement System. The systems shall pay the same percentage of the total premium for the coverage selected for the spouse and dependents of a recipient or the beneficiary of the member, if the member designated only one (1) person as the beneficiary, as the fund pays or paid for the member. ".

Floor Amendment No. 3 to **HB 13**, by Representative Marzian:

On page 3, below line 22, to insert the following:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

When a person who is divorced moves from one (1) location to another within the Commonwealth, that person shall notify the neighbors located on both sides of the person's place of residence of the fact of their arrival and the fact that the person is divorced.".

Floor Amendment No. 4 to **HB 13**, by Representative Marzian:

On page 1, between lines 14 and 15, to insert the following:

"*(d) When a person is guilty of a crime involving an offense against a child. In this case, the marriage is void, and the person who committed the offense against a child is prohibited from marrying again;*" and

On page 1, line 15, to delete "*(d)*" and to insert in lieu thereof "*(e)*"; and

On page 1, line 16, to delete "*(e)*" and to insert in lieu thereof "*(f)*".

On page 3, line 3, to delete "*(e)*" and to insert in lieu thereof "*(f)*"; and

On page 3, line 7, to delete "*(e)*" and to insert in lieu there of "*(f)*"; and

On page 3, line 9, to delete "*(e)*" and to insert in lieu thereof "*(f)*"; and

On page 3, line 16, to delete "*(e)*" and to insert in lieu thereof "*(f)*".

Floor Amendment No. 5 to **HB 13**, by Representative Marzian:

On page 1, between lines 14 and 15, to insert the following:

"***(d) When a person is guilty of adultery. In this case, the marriage is void, and the person who committed the adultery is prohibited from marrying again;***" and

On page 1, line 15, to delete "***(d)***" and to insert in lieu thereof "***(e)***"; and

On page 1, line 16, to delete "***(e)***" and to insert in lieu thereof "***(f)***".

On page 3, line 3, to delete "***(e)***" and to insert in lieu thereof "***(f)***"; and

On page 3, line 7, to delete "***(e)***" and to insert in lieu there of "***(f)***"; and

On page 3, line 9, to delete "***(e)***" and to insert in lieu thereof "***(f)***"; and

On page 3, line 16, to delete "***(e)***" and to insert in lieu thereof "***(f)***".

Floor Amendment No. 1 to the Committee Substitute to **HB 675**, by Representative Wilkey:

On page 5, line 25, by deleting "***exclusive use,***"; and

On page 5, line 25, by deleting "***or***" and by inserting in lieu thereof "***use, or other***"; and

On page 6, line 5, by deleting "***publications***" and inserting in lieu thereof "***tangible personal property***"; and

on page 6, line 5, by deleting "***are***" and inserting in lieu thereof "***is***"; and

On page 6, line 7, after the "***;***", by inserting "***and***"; and

On page 6, by deleting lines 8 and 9 in their entirety; and

On page 6, line 10, by deleting "***3***" and inserting in lieu thereof "***2***"; and

On page 6, by deleting lines 12 through 19 in their entirety; and

On page 6, line 20, by deleting "***(c)***" and inserting in lieu thereof "***(b)***".

Orders of the Day (Continued)

HB 670, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of Floor Amendment No. 1 to **HB 670**. Agreed.

Representative Thomas moved that **HB 670**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 11, 1998 roll call on **HB 670** - Appendix.) **HB 670**, as amended, was passed and the title agreed to. Representative Thomas moved that the vote by which **HB 670**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 774 taken from the Orders of the Day and ordered read at length. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved that **HB 774** be passed.

On the roll call the vote was: Yeas 72, Nays 17 (See March 11, 1998 roll call on **HB 774** - Appendix.) **HB 774** was passed and the title agreed to. Representative Lee moved that the vote by which **HB 774** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 728, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved the adoption of Floor Amendment No. 1 to **HB 728**. Agreed.

Representative R. Adams moved that **HB 728**, as amended, be passed.

Representative Nesler moved the adoption of Floor Amendment No. 2 to **HB 728**. Agreed.

Representative R. Adams moved that **HB 728**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 2 (See March 11, 1998 roll call on **HB 728** - Appendix.) **HB 728**, as amended, was passed and the title agreed to. Representative R. Adams moved that the vote by which **HB 728**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 324**, by Representative Wayne:

On page 6, line 10, after "***purpose***" by deleting "***or***" and inserting in lieu thereof "***taking into consideration the structure and governance of the seller, or in the alternative***"; and

On page 6, line 15, after "***community***" by inserting "***, taking into consideration the structure and governance of the charitable corporation***".

Floor Amendment No. 2 to **HB 765**, by Representative Moberly:

On page 2, line 2, after "***(b)***" by inserting "***A plan for restoration of all areas disturbed or affected by the investigation;***

(c)"; and

On page 2, line 3, by deleting "***(c)***" and inserting in lieu thereof "***(d)***".

Floor Amendment No. 3 to **HB 765**, by Representative Moberly:

On page 2, line 1, after "***investigation***" by inserting "***. In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, the application shall include a plan to prevent erosion and sedimentation***".

Floor Amendment No. 5 to the Committee Substitute to **HB 324**, by Representative Zimmerman:

On page 1, line 3, by deleting "***10***" and inserting "***9***"; and

On page 1, lines 22 and 23, by deleting "***the Attorney General,***"; and

On page 1, after line 24, by inserting:

"***(3) "Cabinet" means the Cabinet for Human Resources;***"; and

On page 1, line 25, by deleting "***(3)***" and inserting "***(4)***"; and

On page 2, line 2, by deleting "***(4)***" and inserting "***(5)***"; and

On page 2, line 6, by deleting "***Attorney***" and inserting "***cabinet***"; and

On page 2, line 7, by deleting "***General***"; and

On page 2, line 8, by deleting "***10***" and inserting "***9***"; and

On page 2, lines 8, 13, 17, and 20 each time it appears, by deleting "***Attorney General***" and inserting "***cabinet***"; and

On page 2, line 18, by deleting "***Attorney***" and inserting "***cabinet***"; and

On page 2, line 19, by deleting "***General***"; and

On page 3, lines 14 and 21, by deleting "***Attorney General***" and inserting "***cabinet***"; and

On page 3, line 24, by deleting "***Attorney***" and inserting "***cabinet***"; and

On page 3, line 25, by deleting "***General***"; and

On page 4, lines 1, 8, and 15, by deleting "***Attorney General***" and inserting "***cabinet***"; and

On page 5, lines 1, 2, 7, 11, and 18, by deleting "***Attorney General***" and inserting "***cabinet***"; and

On page 7, lines 1, 2, 3, 13, 15, and 23, by deleting "***Attorney General***" and inserting "***cabinet***"; and

On page 7, lines 6, 9, and 12, by deleting "***10***" and inserting "***9***"; and

On page 8, lines 2 and 21, by deleting "***Attorney General***" and inserting "***cabinet***"; and

On page 8, lines 17 and 22, by deleting "***10***" and inserting "***9***"; and

On page 8, line 22, by deleting "***Attorney***" and inserting "***cabinet***"; and

On page 8, line 23, by deleting "***General***"; and

On page 9, by deleting lines 1 to 5 in their entirety; and

On page 9, line 6, by deleting "10" and inserting "9"; and

On page 9, line 8, by deleting "***10***" and inserting "***9***".

Floor Amendment No. 1 to **HB 569**, by Representative A. Arnold:

On page 1, by deleting lines 1 through 25 in their entirety; and

By deleting pages 2 through 4 in their entirety, and by inserting in lieu thereof the following:

"Section 1. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the chairman, the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities;

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt; and

(j) Conduct random audits of receipts and expenditures of committees which have filed registration papers with the registry pursuant to KRS 121.170.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel, and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to carry out the purposes of this chapter. ***The registry may appoint and train investigators who, while engaged in their duties as employees of the registry, shall have the powers of peace officers.*** All requests for personnel appointments shall be forwarded by the registry directly to the commissioner of the Department of Personnel and shall be subject to his review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter and KRS Chapter 121A. The registry shall not require the listing of a person's Social Security number on any form developed by the registry. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, and committees are required to keep any records pursuant to the provisions of this chapter and KRS Chapter 121A;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, committees, contributing organizations, parties, and exploratory committees as defined in KRS 121A.010(9)(e) containing the total receipts and expenditures; and

1. For each contribution made by a permanent committee of any amount to a candidate, slate of candidates, or exploratory committee, the date, name, and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, or to an exploratory committee, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically; and
3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2., the date, name, address, occupation, and employer of each other contributor or, if the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter and KRS Chapter 121A; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, charter county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, charter county government, or district office;

(k) Conduct audits of receipts and expenditures of all candidates or slates of candidates running for statewide office;

(l) Require that candidates and slates of candidates shall maintain their records for a period of six (6) years from the date of the regular election in their respective political races;

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion;

(n) Forward to the Attorney General or the appropriate Commonwealth's or county attorney any violations of this chapter and KRS Chapter 121A which may become the subject of civil or criminal prosecution; and

(o) Direct and administer the provisions of KRS Chapter 121A.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he considers to be an abridgement of his legal rights.

Floor Amendment No. 2 Title to **HB 569**, by Representative A. Arnold:

By changing the title to AN ACT relating to the Registry of Election Finance.

Orders of the Day (Continued)

HB 757, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved the adoption of the Committee Substitute to **HB 757**. Agreed.

Representative Vincent moved that **HB 757**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 2 (See March 11, 1998 roll call on **HB 757** - Appendix.) **HB 757**, by way of Committee Substitute, was passed and the title agreed to. Representative Vincent moved that the vote by which **HB 757**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 85, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stine moved the adoption of the Committee Substitute to **HB 85**. Agreed.

Representative Treesh moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 85**. On the roll call on Committee Amendment No. 1 to **HB 85** the vote was: Yeas 72, Nays 17 (See March 11, 1998, roll call on **HB 85** - Appendix.) Committee Amendment No. 1 to the Committee Substitute to **HB 85** was adopted.

Representative Stine moved that **HB 85**, by way of Committee Substitute as amended, be passed.

Representative Marzian moved the adoption of Floor Amendment No. 23 to the Committee Substitute to **HB 85**. **Speaker Pro-Tempore L. Clark assumed the Chair. Speaker Richards resumed the Chair.** Representative Maricle moved that Floor Amendment No. 23 to **HB 85** be passed over. Representative Marzian moved the adoption of Floor Amendment No. 23 to the Committee Substitute to **HB 85**. On the roll call on Floor Amendment No. 23 to the Committee Substitute to **HB 85** the vote was: Yeas 32, Nays 58 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 23 to the Committee Substitute to **HB 85** was rejected.

Representative Nunn spoke on Floor Amendment No. 2 to the Committee Substitute to **HB 85**.

Representative Jordan moved the adoption of Floor Amendment No. 35 to the Committee Substitute to **HB 85**. Representative Palumbo moved that Floor Amendment No. 35 to the Committee Substitute to **HB 85** be tabled. On the roll call to table Floor Amendment No. 35 to the Committee Substitute to **HB 85** the vote was: Yeas 17, Nays 74 (See March 11, 1998, roll call on **HB 85** - Appendix.) The motion to table Floor Amendment No. 35 to the Committee Substitute to **HB 85** was rejected. On the roll call to adopt Floor Amendment No. 35 to the Committee Substitute to **HB 85** the vote was: Yeas 28, Nays 66 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 35 to the Committee Substitute to **HB 85** was rejected.

Representative Nesler moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 85**. On the roll call on Floor Amendment No. 2 to the Committee Substitute to **HB 85** the vote was: Yeas 36, Nays 60 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 2 to the Committee Substitute to **HB 85** was rejected.

Representative Jenkins moved the adoption of Floor Amendment No. 13 to the Committee Substitute to **HB 85**. On the roll call on Floor Amendment No. 13 to the Committee Substitute to **HB 85** the vote was: Yeas 31, Nays 58 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 13 to the Committee Substitute to **HB 85** was rejected.

Representative Palumbo moved the adoption of Floor Amendment No. 33 to the Committee Substitute to **HB 85**. On the roll call on Floor Amendment No. 33 to the Committee Substitute to **HB 85** the vote was: Yeas 33, Nays 59 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 33 to the Committee Substitute to **HB 85** was rejected.

Representative Jordan moved the adoption of Floor Amendment No. 11 to the Committee Substitute to **HB 85**. On the roll call on Floor Amendment No. 11 to the Committee Substitute to **HB 85** the vote was: Yeas 23, Nays 63 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 11 to the Committee Substitute to **HB 85** was rejected.

Representative Johns moved the adoption of Floor Amendment No. 26 to the Committee Substitute to **HB 85**. On the roll call on Floor Amendment No. 26 to the Committee Substitute to **HB 85** the vote was: Yeas 37, Nays 54 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 26 to the Committee Substitute to **HB 85** was rejected.

Representative Stein moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 85**. On the roll call on Floor Amendment No. 4 to the Committee Substitute to **HB 85** the vote was: Yeas 22, Nays 61 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 4 to the Committee Substitute to **HB 85** was rejected.

Representative Stumbo moved the adoption of Floor Amendment No. 19 to the Committee Substitute to **HB 85**. On the roll call on Floor Amendment No. 19 to the Committee Substitute to **HB 85** the vote was: Yeas 29, Nays 67 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 19 to the Committee Substitute to **HB 85** was rejected.

Representative Jenkins moved the adoption of Floor Amendment No. 15 to the Committee Substitute to **HB 85**. On the roll call on Floor Amendment No. 15 to the Committee Substitute to **HB 85** the vote was: Yeas 31, Nays 56 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 15 to the Committee Substitute to **HB 85** was rejected.

Representative Marzian moved the adoption of Floor Amendment No. 34 to the Committee Substitute to **HB 85**. Representative Heleringer inquired if Floor Amendment No. 34 to the Committee Substitute to **HB 85** was germane. The Speaker ruled that Floor Amendment No. 34 to the Committee Substitute to **HB 85** was germane. On the roll call on Floor Amendment No. 34 to the Committee Substitute to **HB 85** the vote was: Yeas 25, Nays 60 (See March 11, 1998, roll call on

HB 85 - Appendix.) Floor Amendment No. 34 to the Committee Substitute to **HB 85** was rejected.

Representative Johns moved the adoption of Floor Amendment No. 30 to the Committee Substitute to **HB 85**. Representative Cave inquired if a fiscal statement was included in Floor Amendment No. 30 to the Committee Substitute to **HB 85**. Representative Johns stated there was no fiscal statement on Floor Amendment No. 30 to the Committee Substitute to **HB 85**. Representative Mason cited House Rule 52 regarding which provides that a majority vote of the members may require that a fiscal statement be attached to any bill or amendment in the Orders of the Day. Representative Cave inquired if Floor Amendment No. 30 to the Committee Substitute to **HB 85** should be placed on the Clerk's Desk for a fiscal note. Representative Mason moved that the rules be suspended to act upon the requirement for a fiscal note. On the roll call to suspend the rules to act upon the requirement for a fiscal note the vote was: Yeas 21, Nays 66 (See March 11, 1998, roll call on **HB 85** - Appendix.) The motion to suspend the rules to act upon the requirement for a fiscal note was rejected. On the roll call on Floor Amendment No. 30 to the Committee Substitute to **HB 85** the vote was: Yeas 23, Nays 60 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 30 to the Committee Substitute to **HB 85** was rejected.

Representative Marzian moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 85**. On the roll call on Floor Amendment No. 7 to the Committee Substitute to **HB 85** the vote was: Yeas 20, Nays 69 (See March 11, 1998, roll call on **HB 85** - Appendix.) Floor Amendment No. 7 to the Committee Substitute to **HB 85** was rejected.

Representative Long moved that House Rule 13 be invoked and a time limit be set on debate. On the roll call to invoke House Rule 13 the vote was: Yeas 23, Nays 25 (See March 11, 1998, roll call on **HB 85** - Appendix.) The motion that House Rule 13 be invoked was rejected. Representative Hatcher moved that House Rule 13 be invoked. The Speaker moved that the motion that House Rule 13 be invoked was out of order.

On the roll call on the passage of **HB 85** the vote was: Yeas 75, Nays 19 (See March 11, 1998 roll call on **HB 85** - Appendix.) **HB 85**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Stine moved that the vote by which **HB 85**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 6 to the Committee Substitute to **HB 324**, by Representative Barrows:

On page 1, line 9, after "***facility***" by deleting "***,***" and inserting"***;***"; and

On page 1, line 9, by deleting "***but***"; and

On page 1, by deleting lines 10 to 18 in their entirety; and

On page 5, line 7, after "***section.***" by inserting "***The judicial review in the Circuit Court shall not be restricted to the record of the public hearing but shall be a de novo review of the final decision of the Attorney General.***"; and

On page 6, line 10, after "***purpose***" by deleting "***or***" and inserting "***taking into consideration the structure and governance of the seller, or in the alternative***"; and

On page 6, line 15, after "***community***" by inserting "***, taking into consideration the structure and governance of the charitable corporation***".

Floor Amendment No. 7 to the Committee Substitute to **HB 324**, by Representative Nunn:

On page 1, line 3, by deleting "***10***" and inserting in lieu thereof "***11***"; and

On page 2, line 8, by deleting "***10***" and inserting in lieu thereof "***8***"; and

On page 7, line 6, by deleting "***10***" and inserting in lieu thereof "***8***"; and

On page 7, line 9, by deleting "***10***" and inserting in lieu thereof "***8***"; and

On page 7, line 12, by deleting "***10***" and inserting in lieu thereof "***11***"; and

On page 8, line 17, by deleting "***10***" and inserting in lieu thereof "***8***"; and

On page 8, line 22, by deleting "***10***" and inserting in lieu thereof "***8***"; and

On page 8, after line 27, by inserting the following new Section:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of Sections 1 to 8 of this Act to the contrary, any acquisition by a person or persons of any ownership or controlling interest in any hospital whether for profit or not for profit that does not meet the requirements for review established in Sections 1 to 8 of this Act, whether the hospital is acquired by purchase, merger, transfer, exchange, option, lease, gift or otherwise, which results in a change of ownership or control of twenty percent (20%) or greater or which results in the acquiring person holding a fifty percent (50%) or greater interest in the ownership or control

shall be reviewed by the Attorney General to ensure the availability of health care services to the affected community. The standards for review shall be established by the Attorney General, and shall include , at a minimum a public hearing that affords affected parties a right to be heard."; and

On page 9, line 1, by deleting "9" and inserting in lieu thereof "10"; and

On page 9, line 3, by deleting "*10*" and inserting in lieu thereof "*11*"; and

On page 9, line 6, by deleting "10" and inserting in lieu thereof "11"; and

On page 9, line 8, by deleting "*10*" and inserting in lieu thereof "*11*".

Floor Amendment No. 8 Title to **HB 324**, by Representative Nunn:

Amend the title to read as follows: "An Act relating to health care facilities."

Floor Amendment No. 9 to the Committee Substitute to **HB 324**, by Representative Nunn:

On page 9, after line 9, by adding the following new section:

"SECTION 11. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Affected party" means the hospital being acquired, any person residing within the geographic area served by the hospital, any person who regularly uses hospitals within the geographic area, health facilities located in the health service area which provide services similar to the services of the hospital proposed to be acquired, the Attorney General, and third-party payors who reimburse health facilities for service in the health services area; and

(b) "Health care facility" means any hospital or other health care facility as defined under KRS 216B

(2) Notwithstanding any provision of Sections 1 to 10 of this Act to the contrary, any acquisition by a person or persons of any ownership or controlling interest in any hospital whether for profit or not-for-profit that does not meet the requirements for review established in Sections 1 to 10 of this Act, whether the hospital is acquired by purchase, merger, transfer, exchange, option, lease, gift or otherwise, which results in a change of ownership or control of twenty percent (20%) or greater or which results in the acquiring person holding a fifty percent (50%) or greater interest in the ownership or control shall be reviewed by the Attorney General to ensure the availability of health care services to the affected community. The standards for review shall be established by the Attorney General, and shall include, at a minimum, a public hearing that affords affected parties a right to be heard.".

Orders of the Day (Continued)

HB 13, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Speaker Pro-Tempore L. Clark assumed the Chair.

Representative Baugh moved the adoption of Committee Amendment No. 1 to **HB 13**. Agreed.

Representative Baugh moved that **HB 13**, as amended, be passed.

The Speaker resumed the Chair.

On the roll call the vote was: Yeas 84, Nays 9 (See March 11, 1998 roll call on **HB 13** - Appendix.) **HB 13**, as amended, was passed and the title agreed to. Representative Baugh moved that the vote by which **HB 13**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **HB 289**, by Representative Barrows:

On page 3, line 8, by inserting the following new language after the word "money": "*may be retained by the corporation and added to the pool from which future prizes are to be awarded or used for special prize promotions., or may be appropriated by the General Assembly directly from the corporation for any public purpose. For fiscal years 1998-99 and 1999-00, any unclaimed prize money in excess of six million dollars ($6,000,000) shall be transferred to the affordable*

housing trust fund established by KRS 189A.170."; and

On page 3, line 8, after the word "money" by inserting an opening bracket, by striking through "shall be", and by deleting all new language; and

On page 3, line 9 by deleting the line in its entirety; and

On page 3, line 10, by deleting all new language, and by deleting the opening bracket before "added".

Floor Amendment No. 3 Title to **HB 289**, by Representative Barrows:

By amending the title to read as follows: "An Act relating to the affordable housing trust fund and making an appropriation therefor.".

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement be waived on **HB 586, HB 107, HB 385, HB 714, HB 762, HB 850, HB 751, HB 812, HB 604** and **SB 354**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **SB 83**

Agriculture and Small Business: **HB 917**

Report of Committees

The Committee on Licensing and Occupations reported **HB 566**, with Committee Substitute attached thereto, **HB 583**, with Committee Substitute attached thereto, **HB 738**, with Committee Substitute attached thereto, and **HB 771** and **SB 126** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 566, AN ACT relating to horse racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.380 is amended to read as follows:

(1) Any track licensed by the commission to conduct horse racing and desiring to establish a simulcast facility shall apply for and may receive approval from the commission for each simulcast facility. Prior to considering an application for approval of a simulcast facility, the commission shall notify by regular mail, each state senator, state representative, county judge/executive, and mayor in the jurisdiction in which the proposed simulcast facility is located, at least ten (10) days in advance of the commission meeting at which the application is to be considered or voted upon. Consideration of an application shall be based on criteria contained in administrative regulations promulgated ***under***[~~pursuant to~~] KRS 230.300. Approval, if granted, shall be granted for a term of one (1) calendar year.

(2) A track or tracks may proceed with the establishment of a simulcast facility unless, within sixty (60) days of the date on which the commission approved the facility, the governing body of the local government jurisdiction in which the facility is to be located votes, by simple majority of those voting, to disapprove the establishment of the simulcast facility. For the purposes of this section, "governing body" means, in an incorporated area, the board of aldermen, city council or board of commissioners; in a county, the fiscal court; in an urban-county government, the urban-county council, or in a charter county, the legislative body created in accordance with KRS 67.825 to 67.875.

(3) The commission shall not approve the establishment of any simulcast facility within a radius of fifty (50) miles of a licensed track. The commission may approve the establishment of one (1) simulcast facility within a radius of greater than fifty (50) miles but less than seventy-five (75) miles of a licensed track, but the facility shall not be approved to operate without the prior written consent of the licensed track within whose seventy-five (75) mile radius the facility is located.

(4) The commission may promulgate administrative regulations as it deems appropriate to protect the integrity of pari-mutuel wagering at any simulcast facility.

(5) Licensed tracks conducting horse racing may enter into joint agreements to establish or operate one (1) or more simulcast facilities, on terms and conditions as the participating tracks may determine. Any agreements respecting these arrangements shall be filed with the commission, and applications for simulcast facilities shall be filed by and licenses may be issued to, these licensed tracks by the commission.

(6) A simulcast facility may be established and operated on property that is owned or leased and which is not used solely for the operation of a simulcast facility; provided however, that a simulcast facility may not be established on the premises of a lottery vendor.

(7) A simulcast facility shall not be subject to and shall not pay any excise tax imposed pursuant to KRS 138.510, any license tax imposed ***under***[~~pursuant to~~] KRS 137.170, or any admission tax imposed ***under***[~~pursuant to~~] KRS 138.480.

(8) One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated for local economic development and shall be allocated as follows:

(a) If a simulcast facility is located in an incorporated area, seventy-five percent (75%) shall be allocated to the governing body of the city in which the facility is located, and twenty-five percent (25%) to the governing body of the county in which the facility is located.

(b) If a simulcast facility is located in an unincorporated area, all moneys shall be allocated to the governing body of the county or charter county in which the facility is located.

(9) (a) After the deduction of moneys under subsection (8), simulcast facility shall deduct a commission allowed ***under***[~~pursuant to~~] KRS 138.515 with respect to all wagers made at the simulcast facility. The commission, less moneys allocated in subsection (8) of this section,shall be split as follows:

1. ***Forty-seven percent (47%)***[~~Thirty percent (30%)~~] shall be allocated to the host track;

2. ***Forty-seven percent (47%)***[~~Thirty percent (30%)~~] to the purse program at the host track; ***and***

3. Six percent (6%) to be retained by the track or tracks owning the simulcast facility for the purpose of application to expenses incurred in connection therewith[~~; and~~

~~4. Thirty-four percent (34%) shall be allocated and deposited in the breeders' award fund described in KRS 230.217~~].

(b) The commission of a simulcast facility derived from interstate wagering shall be reduced by any amounts required to be paid by contract to the host track or track conducting the live race before it is divided as set forth in this section. No simulcast facility may receive any interstate simulcast except with the approval of the live Kentucky host track.

Section 2. KRS 138.530 is amended to read as follows:

(1) The Revenue Cabinet shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS Chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510[~~ and the commission from simulcast facilities to the breeders' award fund~~] shall be made weekly to the Revenue Cabinet no later than the fifth business day, excluding Saturday and Sunday, following the close of each week of racing, during each race meeting and accompanied by reports as prescribed by the cabinet. All funds received by the Revenue Cabinet shall be paid into the State Treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky Racing Commission shall weekly, during each race meeting, report to the Revenue Cabinet the total amount bet or handled the preceding week and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky Racing Commission or his duly authorized representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation, or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any.

Section 3. The following KRS section is repealed:

230.217 Breeders' award fund – Breeders' Award Committee.

The Committee Substitute to **HB 566** is as follows:

AN ACT relating to horse racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.380 is amended to read as follows:

(1) Any track licensed by the commission to conduct horse racing and desiring to establish a simulcast facility shall apply for and may receive approval from the commission for each simulcast facility. Prior to considering an application for approval of a simulcast facility, the commission shall notify by regular mail, each state senator, state representative, county judge/executive, and mayor in the jurisdiction in which the proposed simulcast facility is located, at least ten (10) days in advance of the commission meeting at which the application is to be considered or voted upon. Consideration of an application shall be based on criteria contained in administrative regulations promulgated ***under***[~~pursuant to~~] KRS 230.300. Approval, if granted, shall be granted for a term of one (1) calendar year.

(2) A track or tracks may proceed with the establishment of a simulcast facility unless, within sixty (60) days of the date on which the commission approved the facility, the governing body of the local government jurisdiction in which the facility is to be located votes, by simple majority of those voting, to disapprove the establishment of the simulcast facility. For the purposes of this section, "governing body" means, in an incorporated area, the board of aldermen, city council or board of commissioners; in a county, the fiscal court; in an urban-county government, the urban-county council, or in a charter county, the legislative body created in accordance with KRS 67.825 to 67.875.

(3) The commission shall not approve the establishment of any simulcast facility within a radius of fifty (50) miles of a licensed track. The commission may approve the establishment of one (1) simulcast facility within a radius of greater than fifty (50) miles but less than seventy-five (75) miles of a licensed track, but the facility shall not be approved to operate without the prior written consent of the licensed track within whose seventy-five (75) mile radius the facility is located.

(4) The commission may promulgate administrative regulations as it deems appropriate to protect the integrity of pari-mutuel wagering at any simulcast facility.

(5) Licensed tracks conducting horse racing may enter into joint agreements to establish or operate one (1) or more simulcast facilities, on terms and conditions as the participating tracks may determine. Any agreements respecting these arrangements shall be filed with the commission, and applications for simulcast facilities shall be filed by and licenses may be issued to, these licensed tracks by the commission.

(6) A simulcast facility may be established and operated on property that is owned or leased and which is not used solely for the operation of a simulcast facility; provided however, that a simulcast facility may not be established on the premises of a lottery vendor.

(7) A simulcast facility shall not be subject to and shall not pay any excise tax imposed pursuant to KRS 138.510, any license tax imposed ***under***[~~pursuant to~~] KRS 137.170, or any admission tax imposed ***under***[~~pursuant to~~] KRS 138.480.

(8) One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated for local economic development and shall be allocated as follows:

(a) If a simulcast facility is located in an incorporated area, seventy-five percent (75%) shall be allocated to the governing body of the city in which the facility is located, and twenty-five percent (25%) to the governing body of the county in which the facility is located.

(b) If a simulcast facility is located in an unincorporated area, all moneys shall be allocated to the governing body of the county or charter county in which the facility is located.

(9) (a) After the deduction of moneys under subsection (8), simulcast facility shall deduct a commission allowed ***under***[~~pursuant to~~] KRS 138.515 with respect to all wagers made at the simulcast facility. The commission, less moneys allocated in subsection (8) of this section, shall be split as follows:

1. Thirty percent (30%) shall be allocated to the host track;

2. ***Forty-six and one-half percent (46.5%)***[~~Thirty percent (30%)~~] to the purse program at the host track;

3. ***Thirteen and one-half percent (13.5%)***[~~Six percent (6%)~~] to be retained by the track or tracks owning the simulcast facility for the purpose of application to expenses incurred in connection therewith;[~~ and~~]

4. ***Six percent (6%) to be allocated to the Kentucky Thoroughbred Owners and Breeders, Inc. to be expended as follows:***

a. Up to three percent (3%) for capital improvements and promotion of off-track betting; and

b. The remainder for marketing and promoting the Kentucky thoroughbred industry; and

5. Four percent (4%) to be allocated to the commission to be used for purses at county fairs in Kentucky licensed and approved by the commission, and for the standardbred sires stakes program established under KRS 230.770.[~~Thirty-four percent (34%) shall be allocated and deposited in the breeders' award fund described in KRS 230.217.~~]

(b) The commission of a simulcast facility derived from interstate wagering shall be reduced by any amounts required to be paid by contract to the host track or track conducting the live race before it is divided as set forth in this section. No simulcast facility may receive any interstate simulcast except with the approval of the live Kentucky host track.

(c) The Kentucky Thoroughbred Owners and Breeders, Inc. shall annually report to the commission on all money expended in accordance with subsection (9)(a)4. of this section. The report shall be in the form required, and provide all information required by the commission.

Section 2. KRS 138.530 is amended to read as follows:

(1) The Revenue Cabinet shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS Chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510~~[and the commission from simulcast facilities to the breeders' award fund]~~ shall be made weekly to the Revenue Cabinet no later than the fifth business day, excluding Saturday and Sunday, following the close of each week of racing, during each race meeting and accompanied by reports as prescribed by the cabinet. All funds received by the Revenue Cabinet shall be paid into the State Treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky Racing Commission shall weekly, during each race meeting, report to the Revenue Cabinet the total amount bet or handled the preceding week and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky Racing Commission or his duly authorized representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation, or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any.

Section 3. KRS 230.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Association" means any person licensed by the Kentucky Racing Commission under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;

(2) "Commission" means the Kentucky Racing Commission;

(3) "Commissioner" means a commissioner of the Kentucky Racing Commission;

(4) "Thoroughbred race or thoroughbred racing" means a form of horse racing in which each horse participating in the race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey;

(5) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;

(6) "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;

(7) "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Racing Commission, and may include thoroughbred and harness racing;

(8) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;

(9) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;

(10) "Track" means any association duly licensed by the Kentucky Racing Commission to conduct horse racing. "Track" shall include any facility or real property that is owned***, leased,*** or purchased by a track within the same ***geographic area within a sixty (60) mile radius of a track***~~[county]~~ but not contiguous to track premises, upon commission approval***, and provided the noncontiguous property is not within a sixty (60) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area***;

(11) "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;

(12) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;

(13) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;

(14) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or

foreign country by patrons at a receiving track or simulcast facility;

(15) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;

(16) "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track ***that***[~~which~~] submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility ***that***[~~which~~] meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year;[~~ and~~]

(17) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track***; and***

(18) "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:

(a) The chairman and all members of the board of directors of a corporation;

(b) All partners of a partnership and all participating members of a limited liability company;

(c) All trustees and trust beneficiaries of an association;

(d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;

(e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, ten percent (10%) or more of stock or financial interest in the collective organization; and

(f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation.

Section 4. KRS 230.280 is amended to read as follows:

(1) No person shall hold or conduct any horse race meeting for any stake, purse, or reward within the Commonwealth of Kentucky without securing the required license from the commission.

(2) The commission shall investigate the qualifications of each applicant for a license to conduct a horse race meeting or the renewal of a license to conduct a horse race meeting. The commission may issue or renew a license unless the commission determines that:

(a) The track location, traffic flow, facilities for the public, and facilities for racing participants and horses do not meet state code or are otherwise inadequate to protect the public health and safety;

(b) The racing dates and times requested conflict with another race meeting of the same breed of horse;

(c) The financing or proposed financing of the entire operation is not adequate for the operation or is from an unsuitable source;

(d) The applicant or licensee has failed to disclose or has misstated information or otherwise attempted to mislead the commission with respect to any material fact contained in the application for the issuance or renewal of the license;

(e) The applicant has knowingly failed to comply with the provision of this chapter or any administrative regulations promulgated thereunder;

(f) Any of the principals of the applicant or licensee is determined to be unsuitable because he or she has:

1. Been convicted of any crime of moral turpitude, embezzlement, or larceny, or any violation of any law pertaining to illegal gaming or gambling, or any crime that is inimical to the declared policy of the Commonwealth of Kentucky with regard to horse racing and pari-mutuel wagering thereon;

2. Been convicted in any jurisdiction within ten (10) years preceding initial licensing or license renewal of any crime that is or would be a felony or class A misdemeanor in the Commonwealth of Kentucky;

3. Been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime, or of being of notorious or unsavory reputation;

4. Been placed and remains in the custody of any federal, state, or local law enforcement authority;

5. Had a racing or gaming license revoked in another jurisdiction on grounds that would have been grounds for revoking the license in Kentucky; or

6. Engaged in any other activities that would pose a threat to the public interest or to the effective regulation of horse racing and wagering in Kentucky, or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of racing and wagering or in the operation of the business and financial arrangements incidental thereto; or

(g) The applicant or licensee has had a racing or gaming license denied or revoked in another jurisdiction on grounds that would be grounds for license denial or revocation in Kentucky.

Section 5. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct horse racing at a horse race meeting within the Commonwealth of Kentucky or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before *October 1 of the preceding year*[~~June 1~~] with respect to applications to conduct live horse race meetings, and[~~ on or before October 1,~~] with respect to intertrack wagering dates*, and on forms prescribed by the commission*. The application shall *include the following information:*

(a) The full name and address of the person making application;

(b) The location of the place, track, or enclosure where the applicant proposes to conduct horse racing meetings;

(c) The dates on which the applicant intends to conduct horse racing, which shall be successive days unless authorized by the commission;

(d) The proposed hours of each racing day and the number of races to be conducted;

(e) The names and addresses of all principals associated with the applicant or licensee;

(f) The type of organizational structure under which the applicant operates, i.e., partnership, trust, association, limited liability company, or corporation, and the address of the principal place of business of the organization;

(g) Any criminal activities in any jurisdiction for which any individual listed under paragraphs (a) and (e) has been arrested or indicted and the disposition of the charges, and any current or on-going criminal investigation of which any of these individuals is the subject; and

(h) Any other information that the commission by administrative regulation deems relevant and necessary to determine the fitness of the applicant to receive a license, including fingerprints of any individual listed under paragraphs (a) and (e), if necessary for proper identification of the individual or a determination of suitability to be associated with a licensed racing association.

(2) An application for license shall be accompanied by the following documents:

(a) For a new license applicant, a financial statement prepared and attested to by a certified public accountant in accordance with generally accepted accounting principles, showing the following:

1. The net worth of the applicant;

2. Any debts or financial obligations owed by the applicant and the persons to whom owed; and

3. The proposed or current financing structure for the operation and the sources of financing.

(b) For a license renewal applicant, an audited financial statement for the prior year;

(c) A copy of the applicant's federal and state tax return for the previous year. Tax returns submitted in accordance with this provision shall be treated as confidential;

(d) A statement from the Revenue Cabinet that there are no delinquent taxes or other financial obligations owed by the applicant to the state or any of its agencies or departments;

(e) A statement from the county treasurer of the county in which the applicant conducts or proposes to conduct horse racing meetings that there are no delinquent real or personal property taxes owed by the applicant.

(3) The completed application shall be signed by the applicant or the chief executive officer if the applicant is an organization, sworn under oath that the information is true, accurate, and complete, and the application shall be notarized.

(4) If there is any change in any information submitted in the application process, the applicant or licensee shall notify the commission within thirty (30) days of the change.

(5)[~~specify the location of the track and the days on which racing or intertrack wagering, or both, is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by administrative regulation require.~~

~~(2)~~] The commission shall as soon as practicable, but in no event later than *November*[~~September~~] 1 in any calendar year award dates for racing in the Commonwealth during the next year. In awarding dates, the commission shall consider and seek to preserve each track's usual and customary dates, as these dates are requested. *If dates other than the usual and*

customary dates are requested, the applicant shall include a statement in its application setting forth the reasons the requested dates are sought. Dates for the conduct of intertrack wagering shall be awarded as provided in KRS 230.377. In the event scheduled racing is canceled by reason of flood, fire,[~~ or~~] inclement weather, ***or other natural disaster or emergency,*** the commission may award after ***November***[~~September~~] 1 additional racing dates to make up for those dates canceled by[~~ flood, fire, or inclement weather~~].

(6) The commission may issue a license to conduct a horse race meeting to any association making the aforesaid application if ***the applicant meets the requirements established in Section 2 of this Act and other applicable provisions of KRS Chapter 230, and if*** the commission finds that the proposed conduct of racing by the association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth[~~, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employees, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which the association proposes to conduct a race meeting, and capability to comply with the administrative rulings of the commission, the licensing of the association would serve to nurture, promote, develop, or improve the horse industry in the Commonwealth~~].

(7) As a condition precedent to the issuance of a license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(8)[~~(3)~~] Every license issued under this chapter shall specify among other things the name of the person to whom issued, the address and location of the track where the horse race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track ***that***[~~which~~] is granted overlapping dates for the conduct of a live race meeting with another horse racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

(9)[~~(4)~~] A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a horse race meeting at any track not specified therein. However, if the track specified becomes unsuitable for racing because of flood, fire, or other catastrophe, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of the track willingly consents to the use thereof.

(10)[~~(5)~~] Horse racing dates may be awarded and licenses issued authorizing horse racing on any day of the year. Horse racing shall be held or conducted only between sunrise and midnight.

(11)[~~(6)~~] The commission may at any time require the removal of any official or employee of any association in those instances where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with horse racing or has failed to comply with any condition of his license or has violated any law or any administrative regulation of this commission.

(12)[~~(7)~~] Every horse race not licensed under this section is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the Circuit Court of the county where the unlicensed race is proposed to take place.

Section 6. KRS 230.361 is amended to read as follows:

(1) The commission shall promulgate administrative regulations governing and regulating mutuel wagering on horse races under what is known as the pari-mutuel system of wagering. ***The***[~~Such~~] wagering shall be conducted only by a person licensed under this chapter to conduct a race meeting and only upon the licensed premises. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) [~~In no event shall ~~]The operation of a pari-mutuel system for betting where authorized by law ***shall not*** constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.

(3) All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at horse race meetings shall be presumed abandoned if not claimed by the person entitled ***to them***[~~thereto~~] within ***one (1) year***[~~two (2) years~~] from the time the ticket became payable.

(4) The commission may issue a license to conduct pari-mutuel wagering on steeple chases or other racing over jumps; ***if***[~~provided that~~] all proceeds from ***the***[~~such~~] wagering, after expenses are deducted, ***is***[~~be~~] used for charitable purposes. If the dates requested for such a license have been granted to a track within a forty (40) mile radius of the race site, the commission ***shall***[~~may~~] not issue a license until it has received written approval from the affected track. Pari-mutuel wagering licensed and approved under this subsection shall be limited to four (4) days per year. All racing and wagering authorized by this subsection shall be conducted in accordance with applicable administrative regulations ***promulgated by***[~~of~~] the commission.

Section 7. KRS 230.362 is amended to read as follows:

[~~Beginning July 1, 1978,~~]Any person holding unclaimed pari-mutuel winning tickets presumed abandoned under the provisions of KRS 230.361 shall file annually, on or before September 1 of each year, with the office of the commission a list of and the amounts represented by unclaimed pari-mutuel tickets held by such person as of July 1, and[~~ such~~] other information as the commission may require for the administration of KRS 230.361 to 230.373. The report shall be made in duplicate; the original shall be retained by the commission and the copy shall be mailed to the sheriff of the county where the unclaimed pari-mutuel tickets are held. It shall be the duty of the sheriff to post for not less than twenty (20) consecutive days ***a***[~~said~~] copy ***of the report*** on the courthouse door or the courthouse bulletin board, and to publish ***the***[~~said~~] copy in the manner set forth by KRS Chapter 424. The cost of the publication shall be paid by the commission. The sheriff shall immediately certify in writing to the commission the dates when the list was posted and published. The list shall be posted and published as required on or before October 1 of the year when it is made, and such posting and publishing shall be constructive notice to all holders of pari-mutuel tickets which have remained unclaimed for a period of ***one (1) year***[~~two (2) years~~] from the time the ticket became payable.

Section 8. KRS 230.374 is amended to read as follows:

All sums reported and paid to the commission under the provisions of KRS 230.361 to 230.373, with the exception of funds paid under KRS 230.398, shall be paid by the commission to the Kentucky Racing Health and Welfare Fund, Inc., a nonprofit charitable corporation, organized for the benefit, aid, assistance, and relief of thoroughbred owners, trainers, jockeys, valets, exercise ***riders***[~~boys~~], grooms, stable attendants, pari-mutuel clerks, and other thoroughbred racing personnel employed in connection with racing, and their ***spouses***[~~wives~~] and children, who can demonstrate their need for financial assistance connected with death, illness, or off-the-job injury and are not otherwise covered by union health and welfare plans, workers' compensation, Social Security, public welfare, or any type of health, medical, death, or accident insurance. These sums shall be paid on or before December 31 in each year, ***however,***[~~provided that~~] no payments shall be made by the commission to the Kentucky Racing Health and Welfare Fund, Inc., unless the commission and the Auditor of Public Accounts are satisfied that the fund is in all respects being operated for the charitable and benevolent purposes as set forth ***in this section***[~~above~~] and that no part of the funds paid to the fund by the commission or any net earnings of the fund inure to the benefit of any private individual, director, officer, or member of the fund or any of the persons who turned over sums to the commission representing unclaimed pari-mutuel tickets.

Section 9. The following KRS section is repealed:

230.217 Breeders' award fund – Breeders' Award Committee.

HB 583, AN ACT relating to child care facility licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.640 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, or maintain any child-caring facility or child-placing agency without having a license to do so issued by the cabinet.

(2) Licenses issued to the agency or facility shall be valid for a period of one (1) year from date of issue unless revoked by the cabinet provided that each licensed facility or agency shall be visited and inspected by a person authorized by the cabinet at least once each year and a complete report of such visit or inspection be filed with the cabinet. Each license issued shall specify the type of care or service the licensee is authorized to perform. Each initial application for a license shall be accompanied by a fee of one hundred dollars ($100) and shall, except for provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of fifty dollars ($50). The fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of said account shall lapse to the general fund at the end of each biennium.

(3) The secretary may adopt administrative regulations establishing standards of care and service for child-caring facilities and child-placing agencies relating to the sanitary and hygienic conditions, the accommodations available for each child, the diet provided, the safety of the child from fire and other accidents and hazards, and such other factors as may be necessary to promote the welfare of children cared for or placed by such agencies and facilities; provided, however, any administrative regulations adopted pursuant to KRS Chapter 13A to govern services provided by church-related privately operated child-caring agencies or facilities shall not prohibit the use of reasonable corporal physical discipline which complies with the provisions of KRS 503.110(1), including the use of spanking or paddling, as a means of punishment, discipline or behavior modification***, and shall prohibit the employment of persons convicted of any sexual offense with any child-caring facility or child-placing agency***.

(4) Each agency or facility licensed under this section shall keep a record containing:

- (a) The names, ages, present, and former residences of all children received;
- (b) The names, residence, and occupation so far as is known, of the parents;
- (c) The dates of the reception, placing out for adoption or foster care, together with the names, occupation, and

residence of the persons with whom the child is placed;

(d) The date and cause of termination of its custody of each child; and

(e) A brief history of each child until he shall have reached the age of eighteen (18) years or shall have been adopted or discharged according to the law.

(5) Parents are received or boarded in a family rehabilitation home pursuant to a written agreement between home and parent.

(6) All records regarding children or facts learned about children and their parents and relatives by any licensed agency or facility shall be deemed confidential in the same manner and subject to the same provisions as similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection except to authorized employees of the cabinet or of such licensed agency or facility in performance of their duties.

Section 2. KRS 199.896 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, maintain, or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties***; provided, however, any administrative regulations promulgated pursuant to KRS Chapter 13A shall prohibit the employment of persons convicted of any sexual offense***.

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.

(6) ***The cabinet shall provide public information regarding inspections of child day-care centers, and the denial, revocation, suspension, or violation of any type of day-care license of the operator. Identifying information regarding children and their families shall remain confidential.***

(7) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated for the use of the cabinet. The balance of the special fund shall lapse to the general fund at the end of each biennium.

(8)[~~(7)~~] Any advertisement for child-care services shall include the address of where the service is being provided.

(9)[~~(8)~~] All inspections of licensed and unlicensed day-care centers by the Cabinet for Human Resources shall be unannounced.

(10)[~~(9)~~] All employees and owners of a day-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; and

(c) Developmentally appropriate child-care practice.

(11)[~~(10)~~] All employees and owners of a day-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(12)[~~(11)~~] The cabinet shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection ***(10)***[~~(9)~~] of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection ***(10)***[~~(9)~~] of this section.

(13)[~~(12)~~] Child day-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.

Section 3. KRS 199.898 is amended to read as follows:

(1) All children receiving child-care services in a day-care center licensed pursuant to KRS 199.896, a family child-care home certified pursuant to KRS 199.8982, or from a provider or program receiving public funds shall have the following rights:

- (a) The right to be free from physical or mental abuse;
- (b) The right not to be subjected to abusive language or abusive punishment; and
- (c) The right to be in the care of adults who shall meet their health, safety, and developmental needs.

(2) Parents, custodians, or guardians of children specified in subsection (1) of this section shall have the following rights:

- (a) The right to have access to their children at all times the child is in care and access to the provider caring for their children during normal hours of provider operation and whenever the children are in the care of the provider;
- (b) The right to be provided with information about child-care regulatory standards, if applicable; where to direct questions about regulatory standards; and how to file a complaint;
- (c) The right to file a complaint against a child-care provider without any retribution against the parent, custodian, guardian, or child;[~~ and~~]
- (d) ***The right to obtain information from the cabinet regarding any type of licensure denial or revocation of an operator, inspections, deficiencies, and founded reports of abuse or neglect by any child-care provider or any employee of a child care provider. Identifying information regarding children and their families shall remain confidential; and***
- ***(e)*** The right to review and discuss with the provider any state reports and deficiencies revealed by such reports.

(3) The child-care provider who is licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982 shall post these rights in a prominent place and shall provide a copy of these rights to the parent, custodian, or guardian of the child at the time of the child's enrollment in the program.

Section 4. KRS 199.8982 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

- (a) "Cabinet" means the Cabinet for Human Resources;
- (b) "Department" means the Department for Social Services; and
- (c) "Family child-care home" means a private home which provides full or part-time care day or night for six (6) or fewer children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the provider.

(2) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall meet the following minimum requirements:

1. Submit two (2) written character references;
2. Provide a written statement from a physician that the applicant is in good health;
3. Submit to a criminal record check as provided by KRS 17.165;
4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;
5. Provide a copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for certification; and
6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:
    - a. Basic health, safety, and sanitation;
    - b. Recognizing and reporting child abuse; and
    - c. Developmentally appropriate child-care practice.

(b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar ($10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars ($10).

(c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.

(d) The cabinet shall promulgate administrative regulations which establish standards for the issuance, monitoring, ***release of information under Sections 2 and 3 of this Act,*** renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:

1. Certification requirements and procedures;
2. Information about available child-care training; and
3. Child-care food sponsoring organizations.

(3) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(4) The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (2)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (2)(a)6. of this section.

The Committee Substitute to **HB 583** is as follows:

AN ACT relating to child care facility licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.640 is amended to read as follows:

(1) No person, association*,* or organization shall conduct, operate*,* or maintain any child-caring facility or child-placing agency without having a license to do so issued by the cabinet.

(2) Licenses issued to the agency or facility shall be valid for a period of one (1) year from date of issue unless revoked by the cabinet provided that each licensed facility or agency shall be visited and inspected by a person authorized by the cabinet at least once each year and a complete report of such visit or inspection be filed with the cabinet. Each license issued shall specify the type of care or service the licensee is authorized to perform. Each initial application for a license shall be accompanied by a fee of one hundred dollars ($100) and shall, except for provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of fifty dollars ($50). The fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of said account shall lapse to the general fund at the end of each biennium.

(3) The secretary may adopt administrative regulations establishing standards of care and service for child-caring facilities and child-placing agencies relating to the sanitary and hygienic conditions, the accommodations available for each child, the diet provided, the safety of the child from fire and other accidents and hazards, and such other factors as may be necessary to promote the welfare of children cared for or placed by such agencies and facilities; provided, however, any administrative regulations adopted pursuant to KRS Chapter 13A to govern services provided by church-related privately operated child-caring agencies or facilities shall not prohibit the use of reasonable corporal physical discipline which complies with the provisions of KRS 503.110(1), including the use of spanking or paddling, as a means of punishment, discipline or behavior modification***, and shall prohibit the employment of persons convicted of any sexual offense with any child-caring facility or child-placing agency***.

(4) Each agency or facility licensed under this section shall keep a record containing:

(a) The names, ages, present*,* and former residences of all children received;

(b) The names, residence*,* and occupation so far as is known, of the parents;

(c) The dates of the reception, placing out for adoption or foster care, together with the names, occupation*,* and residence of the persons with whom the child is placed;

(d) The date and cause of termination of its custody of each child; and

(e) A brief history of each child until he shall have reached the age of eighteen (18) years or shall have been adopted or discharged according to the law.

(5) Parents are received or boarded in a family rehabilitation home pursuant to a written agreement between home and parent.

(6) All records regarding children or facts learned about children and their parents and relatives by any licensed agency or facility shall be deemed confidential in the same manner and subject to the same provisions as similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection except to authorized employees of the cabinet or of such licensed agency or facility in performance of their duties.

Section 2. KRS 199.896 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, maintain, or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties***; provided, however, any administrative regulations promulgated pursuant to KRS Chapter 13A shall prohibit the employment of persons convicted of any sexual offense***.

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.

(6) ***Upon request of any person with a legitimate interest, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the operator. Identifying information regarding children and their families shall remain confidential.***

(7) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the day-care center within the past year. All information distributed by the cabinet under this subsection shall include a statement indicating that the reports as provided under this subsection from the past five (5) years are available from the day-care center upon the parent's, custodian's, guardian's, or other interested person's request.

(8) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated for the use of the cabinet. The balance of the special fund shall lapse to the general fund at the end of each biennium.

(9)[~~(7)~~] Any advertisement for child-care services shall include the address of where the service is being provided.

(10)[~~(8)~~] All inspections of licensed and unlicensed day-care centers by the Cabinet for Human Resources shall be unannounced.

(11)[~~(9)~~] All employees and owners of a day-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; and

(c) Developmentally appropriate child-care practice.

(12)[~~(10)~~] All employees and owners of a day-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(13)[~~(11)~~] The cabinet shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection ***(11)***[~~(9)~~] of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection ***(11)***[~~(9)~~] of this section.

(14)[~~(12)~~] Child day-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.

(15) Directors of child day-care centers shall not have been found by the cabinet or a court to have abused or neglected a child.

Section 3. KRS 199.898 is amended to read as follows:

(1) All children receiving child-care services in a day-care center licensed pursuant to KRS 199.896, a family child-care home certified pursuant to KRS 199.8982, or from a provider or program receiving public funds shall have the following rights:

(a) The right to be free from physical or mental abuse;

(b) The right not to be subjected to abusive language or abusive punishment; and

(c) The right to be in the care of adults who shall meet their health, safety, and developmental needs.

(2) Parents, custodians, or guardians of children specified in subsection (1) of this section shall have the following rights:

(a) The right to have access to their children at all times the child is in care and access to the provider caring for their children during normal hours of provider operation and whenever the children are in the care of the provider;

(b) The right to be provided with information about child-care regulatory standards, if applicable; where to direct questions about regulatory standards; and how to file a complaint;

(c) The right to file a complaint against a child-care provider without any retribution against the parent, custodian, guardian, or child;[~~and~~]

(d) ***The right to obtain information from the cabinet regarding any type of licensure denial, suspension, or revocation of an operator, and cabinet reports that have found abuse or neglect by any child-care provider or any employee of a child care provider. Identifying information regarding children and their families shall remain confidential;***

(e) The right to obtain information from the cabinet regarding the inspections and plans of correction of the day-care center, the family child-care home, or the provider or program receiving public funds within the past year; and

(f) The right to review and discuss with the provider any state reports and deficiencies revealed by such reports.

(3) The child-care provider who is licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982 shall post these rights in a prominent place and shall provide a copy of these rights to the parent, custodian, or guardian of the child at the time of the child's enrollment in the program.

Section 4. KRS 199.8982 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for Human Resources;

(b) "Department" means the Department for Social Services; and

(c) "Family child-care home" means a private home which provides full or part-time care day or night for six (6) or fewer children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the provider.

(2) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall ***not have been found by the cabinet or a court to have abused or neglected a child, and shall*** meet the following minimum requirements:

1. Submit two (2) written character references;

2. Provide a written statement from a physician that the applicant is in good health;

3. Submit to a criminal record check as provided by KRS 17.165;

4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;

5. Provide a copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for certification; and

6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:

   a. Basic health, safety, and sanitation;

   b. Recognizing and reporting child abuse; and

   c. Developmentally appropriate child-care practice.

(b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar ($10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars ($10).

(c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.

(d) ***Upon request of any person with a legitimate interest, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the family child-care provider. Identifying information regarding children and their families shall remain confidential.***

(e) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the family child-care home within the past year. All information distributed by the cabinet under this paragraph shall include a statement indicating that the reports as provided under this paragraph from the past five (5) years are available from the family child-care home upon the parent's, custodian's, guardian's, or other interested person's request.

(f) The cabinet shall promulgate administrative regulations ***in accordance with KRS Chapter 13A*** which establish standards for the issuance, monitoring, ***release of information under Sections 2, 3, and 4 of this Act,*** renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home***; provided, however, any administrative regulations promulgated in accordance with KRS Chapter 13A shall prohibit the employment of persons convicted of any sexual offense***. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:

1. Certification requirements and procedures;
2. Information about available child-care training; and
3. Child-care food sponsoring organizations.

(3) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(4) The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (2)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (2)(a)6. of this section.

HB 738, AN ACT relating to estheticians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Hairdressers and Cosmetologists, created in KRS 317A.030;

(2) "Esthetician" means a person who engages in esthetic practices;

(3) (a) "Esthetic practices" means one (1) or more of the following acts:

1. Giving facials, including consultation and skin analysis;

2. Makeup artistry, including corrective and camouflage techniques;

3. Giving skin care;

4. Removing hair by tweezing, depilatory, or waxing;

5. Beautifying or cleaning with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams; or

6. Providing preoperative and postoperative esthetic skin care, either referred by or supervised by a

medical professional;

(b) "Esthetic practices" do not include acts performed incident to:

1. Treatment of an illness or a disease;

2. Work as a student in a cosmetology school;

3. Work without compensation; or

4. Retail sales of cosmetics; and

(4) "Esthetic salon" means a place where an esthetician performs esthetic practices.

SECTION 2. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

Effective July 1, 2000, no person shall represent himself or herself as an esthetician or teach esthetic practices unless he or she is licensed in accordance with the provisions of Sections 1 to 11 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of Sections 1 to 11 of this Act and shall evaluate the qualifications of applicants for licensure and the issuance of licenses.

(2) The board may employ inspectors and other personnel as reasonably necessary to carry out the provisions of Sections 1 to 11 of this Act. Their compensations shall be established within budgetary limits by the Department of Personnel.

(3) The board shall promulgate administrative regulations governing the operation of any schools teaching esthetic practices and esthetic salons including, but not limited to, administrative regulations to protect the health and safety of the public, to protect the public against misrepresentation, deceit, or fraud in the practice or teaching of esthetic practices, to set standards for the operation of the schools and salons, and to protect the students under the provisions of Sections 1 to 11 of this Act. The administrative regulations shall also address:

(a) The quantity and quality of equipment, supplies, materials, records, and furnishings required in esthetic salons or classrooms;

(b) The course and conduct of school owners, instructors, estheticians, esthetic salons, and cosmetology schools conducting classes in esthetic practices;

(c) The proper education and training of students;

(d) The qualifications of instructors of esthetic practices;

(e) The hours and courses of instruction in esthetic practices; and

(f) The examinations of applicants for licenses.

(4) Administrative regulations pertaining to health and sanitation shall be approved by the Department for Health Services before becoming effective.

SECTION 4. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) (a) Subject to paragraphs (b) and (c) of this subsection, the board shall issue an esthetician license to any person who:

1. Is of good moral character and temperate habit;

2. Is at least sixteen (16) years of age;

3. Has completed two (2) years of high school education or its equivalent;

4. Has completed satisfactorily seven hundred (700) hours of instruction in the theory and practice of esthetics as a student in a licensed school of cosmetology;

5. Has received a satisfactory grade on an examination prescribed by the board to determine fitness to practice as an esthetician; and

6. Has paid a fee, promulgated by the board in an administrative regulation, that does not exceed the amount required for a cosmetologist license.

(b) If an applicant demonstrates acceptable experience or knowledge in the theory and practice of esthetics, the board may waive or modify the requirements of subsection (1)(a)4 of this section.

(c) If an applicant has been engaged in esthetic practices for two (2) or more years prior to the effective date of Sections 1 to 11 of this Act, the board shall waive the requirements of subsection (1)(a)4. and 5.

(2) (a) The board shall issue a license to operate an esthetic salon to any licensed esthetician upon receipt of:

1. The completed application; and

2. A fee, as promulgated by the board in an administrative regulation, that does not exceed the amount *required for a beauty salon license.*

(b) If an owner is not a licensed esthetician, the owner shall have a licensed esthetician manage the esthetic salon at all times. A new license shall be purchased if the salon's owner, manager, or location changes.

(c) Licensed esthetic salons shall have the furnishings and salon equipment required under administrative regulations promulgated by the board.

(d) Any person who leases or rents space in a beauty salon, barber shop, or esthetic salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a), (b), and (c) of this subsection.

(e) The board may refuse to issue a license if the applicant fails to comply with the provisions of Sections 1 to 11 of this Act or the administrative regulations promulgated by the board.

(3) The board shall issue a license to teach esthetic practices to any person who:

(a) Is of good moral character and temperate habit;

(b) Is at least eighteen (18) years of age;

(c) Has a high school education or equivalent;

(d) Holds a current esthetician license;

(e) Has received a satisfactory grade on the examination for the teaching of esthetics as prescribed by the board; and

(f) Has paid a fee, as promulgated by the board in an administrative regulation, that does not exceed the amount required for a cosmetology instructor license.

(4) Courses in esthetic practices may be taught at any licensed cosmetology school that complies with the administrative regulations promulgated by the board under Section 3 of this Act.

(5) Applications for examinations required by this section shall be accompanied by an examination fee as follows:

(a) The examination fee for estheticians shall not exceed that for cosmetologists; and

(b) The examination fee for instructors of esthetic practices shall not exceed that for cosmetology instructors.

SECTION 5. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) Beginning in 2001, licenses issued by the board under Sections 1 to 11 of this Act shall be renewed upon receipt between July 1 and July 31 of each year, if the applicant provides proof of continuing education as determined by the board by promulgation of an administrative regulation. Instructors of esthetic practices shall provide proof of eight (8) clock hours of continuing education, and estheticians shall provide proof of six (6) clock hours of continuing education. Continuing education credit may be earned in other states and countries that license estheticians, if approved by the board. The application for renewal shall be completed in full and accompanied by the appropriate renewal fee as promulgated by the board in administrative regulation. The renewal fee for estheticians shall not exceed that for cosmetologists; the renewal fee for instructors of esthetic practices shall not exceed that for cosmetology instructors; and the renewal fee for esthetic salons shall not exceed that for beauty salons. Applications for renewal shall comply with the provisions of Sections 1 to 11 of this Act and the administrative regulations promulgated by the board. Any license application postmarked after July 31 shall be considered expired and the appropriate restoration fee required by subsection (2) of this section shall apply.

(2) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:

(a) The restoration fee for estheticians shall not exceed that for cosmetologists; and

(b) The restoration fee for instructors of esthetic practices shall not exceed that for cosmetology instructors.

(3) The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:

(a) Estheticians shall retake and pass the practical examination only;

(b) Instructors of esthetic practices shall retake and pass both the practical and science examination; and

(c) The appropriate restoration fee as set forth in subsection (2) shall be required.

SECTION 6. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) No examination or part of any examination required by Sections 1 to 11 of this Act shall be given unless a quorum of the board is present to supervise the examination;

(2) Examinations given by the board shall cover all phases of the applicant's qualifications for the particular license, including the skill and technique of the applicant, as well as scientific and other knowledge;

(3) Examinations shall be given at regularly prescribed intervals but not more frequently than thirty (30) days; and

(4) Examinations shall be given at the principal office of the board.

SECTION 7. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate administrative regulations pertaining to the issuance of a license, upon payment of the prescribed license fee, to any person holding a comparable license issued by another state or country where the laws of that state or country, in the opinion of the board, provide comparable professional qualification, health, and safety standards.

(2) Notwithstanding the provisions of subsection (1) of this section, a license to operate or practice in this state may be refused or denied a holder of a license issued by another state if the state does not extend to the holder of a Kentucky license similar or comparable recognition and opportunity.

SECTION 8. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue or renew a license or may revoke or suspend licenses that are issued, upon proper showing of applicant's or licensee's:

(a) Conviction of a felony;

(b) Gross malpractice or incompetence;

(c) Mental or physical health that would endanger public health or safety;

(d) False or deceptive practice or misrepresentation, including advertising;

(e) Practicing in an unlicensed esthetic salon;

(f) Practicing in a salon knowing that the salon is not complying with Sections 1 to 11 of this Act or administrative regulations of the board promulgated under Sections 1 to 11 of this Act;

(g) Immoral or unprofessional conduct;

(h) Teaching in an unlicensed school;

(i) Teaching in a school knowing that the school is not complying with Sections 1 to 11 of this Act or administrative regulations of the board promulgated under Sections 1 to 11 of this Act; or

(j) Failure to comply with the administrative regulations of the board.

(2) The licensee may have the alternative, subject to approval of the board, to pay in lieu of part or all of the days of any suspension period a payment of not less than twenty-five dollars ($25) per day and not to exceed five hundred dollars ($500) total. The board shall set the amounts of those payments by administrative regulation.

(3) Payments in lieu of suspension collected by the board shall be deposited in the State Treasury and credited to the general expenditure fund.

(4) The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of the licensee.

SECTION 9. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) The board shall receive complaints concerning any person licensed under the provisions of Sections 1 to 11 of this Act relating to the licensee's business or professional practices. Each complaint received shall be placed in a log, recording the licensee's name, name of complaining party, date of complaint, brief statement of complaint and its ultimate disposition and shall make the log available for public inspection. The board shall investigate all complaints concerning any person licensed under the provisions of Sections 1 to 11 of this Act. The board may on its own volition initiate such an investigation and shall promulgate administrative regulations necessary for the administration of the provisions of this section.

(2) If upon investigation there appears to be a violation of the provisions of Sections 1 to 11 of this Act, the board shall take any action it deems necessary under the provisions of Section 8 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) The board shall hold hearings upon the request of any person directly affected by the board's decision to refuse to renew a license or to deny, suspend, or revoke a license and no license renewal shall be denied nor shall a license be revoked unless the board gives notice in advance of the hearing in accordance with KRS Chapter 13B. The hearing shall be conducted in accordance with KRS Chapter 13B.

(2) Rulings of the board as a result of any hearing may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.

SECTION 11. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any provision of Sections 1 to 11 of this Act shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any person who violates any administrative regulation promulgated by the board under the authority contained in Sections 1 to 11 of this Act shall be fined not less than twenty five dollars ($25) nor more than two hundred dollars ($200).

The Committee Substitute to **HB 738** is as follows:

AN ACT relating to estheticians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Hairdressers and Cosmetologists, created in KRS 317A.030;

(2) "Esthetician" means a person who engages in esthetic practices;

(3) (a) "Esthetic practices" means one (1) or more of the following acts:

1. Giving facials, including consultation and skin analysis;

2. Makeup artistry, including corrective and camouflage techniques;

3. Giving skin care;

4. Removing hair by tweezing, depilatory, or waxing;

5. Beautifying or cleaning with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams; or

6. Providing preoperative and postoperative esthetic skin care, either referred by or supervised by a medical professional;

(b) "Esthetic practices" do not include acts performed incident to:

1. Treatment of an illness or a disease;

2. Work as a student in a cosmetology school;

3. Work without compensation; or

4. Retail sales of cosmetics; and

(4) "Esthetic salon" means a place where an esthetician performs esthetic practices.

SECTION 2. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 2000, no person shall represent himself or herself as an esthetician or teach esthetic practices unless he or she is licensed in accordance with the provisions of Sections 1 to 11 of this Act.

(2) Prior to July 1, 2000, the board may issue a license to teach esthetic practices to an individual with two (2) or more years experience in teaching esthetic practices in another jurisdiction who meets the requirements of subsection (3)(a), (b), (c), (d), and (f) of Section 4 of this Act.

(3) The provisions of Sections 1 to 11 of this Act do not apply to cosmetologists engaged in those esthetic practices taught as part of a cosmetology school curriculum in the state of Kentucky.

SECTION 3. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of Sections 1 to 11 of this Act and shall evaluate the qualifications of applicants for licensure and the issuance of licenses.

(2) The board may employ inspectors and other personnel as reasonably necessary to carry out the provisions of Sections 1 to 11 of this Act. Their compensations shall be established within budgetary limits by the Department of Personnel.

(3) The board shall promulgate administrative regulations governing the operation of any schools teaching esthetic practices and esthetic salons including, but not limited to, administrative regulations to protect the health and safety of the public, to protect the public against misrepresentation, deceit, or fraud in the practice or teaching of esthetic practices, to set standards for the operation of the schools and salons, and to protect the students under the provisions of Sections 1 to 11 of this Act. The administrative regulations shall also address:

(a) The quantity and quality of equipment, supplies, materials, records, and furnishings required in esthetic salons or classrooms;

(b) The course and conduct of school owners, instructors, estheticians, esthetic salons, and cosmetology schools conducting classes in esthetic practices;

(c) The proper education and training of students;

(d) The qualifications of instructors of esthetic practices;

(e) The hours and courses of instruction in esthetic practices; and

(f) The examinations of applicants for licenses.

(4) Administrative regulations pertaining to health and sanitation shall be approved by the Department for Health Services before becoming effective.

SECTION 4. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) (a) Subject to paragraphs (b) and (c) of this subsection, the board shall issue an esthetician license to any person who:

1. Is of good moral character and temperate habit;

2. Is at least sixteen (16) years of age;

3. Has completed two (2) years of high school education or its equivalent;

4. Has completed satisfactorily seven hundred (700) hours of instruction in the theory and practice of esthetics as a student in a licensed school of cosmetology;

5. Has received a satisfactory grade on an examination prescribed by the board to determine fitness to practice as an esthetician; and

6. Has paid a fee, promulgated by the board in an administrative regulation, that does not exceed the amount required for a cosmetologist license.

(b) If an applicant demonstrates acceptable experience or knowledge in the theory and practice of esthetics, the board may waive or modify the requirements of subsection (1)(a)4 of this section.

(c) If an applicant has been engaged in esthetic practices for two (2) or more years prior to the effective date of Sections 1 to 11 of this Act, the board shall waive the requirements of subsection (1)(a)4. and 5.

(2) (a) The board shall issue a license to operate an esthetic salon to any licensed esthetician upon receipt of:

1. The completed application; and

2. A fee, as promulgated by the board in an administrative regulation, that does not exceed the amount required for a beauty salon license.

(b) If an owner is not a licensed esthetician, the owner shall have a licensed esthetician manage the esthetic salon at all times. A new license shall be purchased if the salon's owner, manager, or location changes.

(c) Licensed esthetic salons shall have the furnishings and salon equipment required under administrative regulations promulgated by the board.

(d) Any person who leases or rents space in a beauty salon, barber shop, or esthetic salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a), (b), and (c) of this subsection.

(e) The board may refuse to issue a license if the applicant fails to comply with the provisions of Sections 1 to 11 of this Act or the administrative regulations promulgated by the board.

(3) The board shall issue a license to teach esthetic practices to any person who:

(a) Is of good moral character and temperate habit;

(b) Is at least eighteen (18) years of age;

(c) Has a high school education or equivalent;

(d) Holds a current esthetician license;

(e) Has received a satisfactory grade on the examination for the teaching of esthetics as prescribed by the board;

(f) Has paid a fee, as promulgated by the board in an administrative regulation, that does not exceed the amount required for a cosmetology instructor license; and

(g) Has fulfilled any course work requirements as promulgated by the board in administrative regulation.

(4) Courses in esthetic practices may be taught at any licensed cosmetology school that complies with the administrative regulations promulgated by the board under Section 3 of this Act.

(5) Applications for examinations required by this section shall be accompanied by an examination fee as follows:

(a) The examination fee for estheticians shall not exceed that for cosmetologists; and

(b) The examination fee for instructors of esthetic practices shall not exceed that for cosmetology instructors.

SECTION 5. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) Beginning in 2001, licenses issued by the board under Sections 1 to 11 of this Act shall be renewed upon receipt

between July 1 and July 31 of each year, if the applicant provides proof of continuing education as determined by the board by promulgation of an administrative regulation. Instructors of esthetic practices shall provide proof of eight (8) clock hours of continuing education, and estheticians shall provide proof of six (6) clock hours of continuing education. Continuing education credit may be earned in other states and countries that license estheticians, if approved by the board. The application for renewal shall be completed in full and accompanied by the appropriate renewal fee as promulgated by the board in administrative regulation. The renewal fee for estheticians shall not exceed that for cosmetologists; the renewal fee for instructors of esthetic practices shall not exceed that for cosmetology instructors; and the renewal fee for esthetic salons shall not exceed that for beauty salons. Applications for renewal shall comply with the provisions of Sections 1 to 11 of this Act and the administrative regulations promulgated by the board. Any license application postmarked after July 31 shall be considered expired and the appropriate restoration fee required by subsection (2) of this section shall apply.

(2) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:

(a) The restoration fee for estheticians shall not exceed that for cosmetologists; and

(b) The restoration fee for instructors of esthetic practices shall not exceed that for cosmetology instructors.

(3) The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:

(a) Estheticians shall retake and pass the practical examination only;

(b) Instructors of esthetic practices shall retake and pass both the practical and science examination; and

(c) The appropriate restoration fee as set forth in subsection (2) shall be required.

SECTION 6. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) No examination or part of any examination required by Sections 1 to 11 of this Act shall be given unless a quorum of the board is present to supervise the examination;

(2) Examinations given by the board shall cover all phases of the applicant's qualifications for the particular license, including the skill and technique of the applicant, as well as scientific and other knowledge;

(3) Examinations shall be given at regularly prescribed intervals but not more frequently than thirty (30) days; and

(4) Examinations shall be given at the principal office of the board.

SECTION 7. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) The board shall promulgate administrative regulations pertaining to the issuance of a license, upon payment of the prescribed license fee, to any person holding a comparable license issued by another state or country where the laws of that state or country, in the opinion of the board, provide comparable professional qualification, health, and safety standards.

(2) Notwithstanding the provisions of subsection (1) of this section, a license to operate or practice in this state may be refused or denied a holder of a license issued by another state if the state does not extend to the holder of a Kentucky license similar or comparable recognition and opportunity.

SECTION 8. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue or renew a license or may revoke or suspend licenses that are issued, upon proper showing of applicant's or licensee's:

(a) Conviction of a felony;

(b) Gross malpractice or incompetence;

(c) Mental or physical health that would endanger public health or safety;

(d) False or deceptive practice or misrepresentation, including advertising;

(e) Practicing in an unlicensed esthetic salon;

(f) Practicing in a salon knowing that the salon is not complying with Sections 1 to 11 of this Act or administrative regulations of the board promulgated under Sections 1 to 11 of this Act;

(g) Immoral or unprofessional conduct;

(h) Teaching in an unlicensed school;

(i) Teaching in a school knowing that the school is not complying with Sections 1 to 11 of this Act or administrative regulations of the board promulgated under Sections 1 to 11 of this Act; or

(j) Failure to comply with the administrative regulations of the board.

(2) The licensee may have the alternative, subject to approval of the board, to pay in lieu of part or all of the days of any

suspension period a payment of not less than twenty-five dollars ($25) per day and not to exceed five hundred dollars ($500) total. The board shall set the amounts of those payments by administrative regulation.

(3) Payments in lieu of suspension collected by the board shall be deposited in the State Treasury and credited to the general expenditure fund.

(4) The board may require retesting of any licensee upon proper showing of gross malpractice or incompetence on the part of the licensee.

SECTION 9. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) The board shall receive complaints concerning any person licensed under the provisions of Sections 1 to 11 of this Act relating to the licensee's business or professional practices. Each complaint received shall be placed in a log, recording the licensee's name, name of complaining party, date of complaint, brief statement of complaint and its ultimate disposition and shall make the log available for public inspection. The board shall investigate all complaints concerning any person licensed under the provisions of Sections 1 to 11 of this Act. The board may on its own volition initiate such an investigation and shall promulgate administrative regulations necessary for the administration of the provisions of this section.

(2) If upon investigation there appears to be a violation of the provisions of Sections 1 to 11 of this Act, the board shall take any action it deems necessary under the provisions of Section 8 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) The board shall hold hearings upon the request of any person directly affected by the board's decision to refuse to renew a license or to deny, suspend, or revoke a license and no license renewal shall be denied nor shall a license be revoked unless the board gives notice in advance of the hearing in accordance with KRS Chapter 13B. The hearing shall be conducted in accordance with KRS Chapter 13B.

(2) Rulings of the board as a result of any hearing may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.

SECTION 11. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any provision of Sections 1 to 11 of this Act shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any person who violates any administrative regulation promulgated by the board under the authority contained in Sections 1 to 11 of this Act shall be fined not less than twenty five dollars ($25) nor more than two hundred dollars ($200).

HB 771, AN ACT relating to small and farm wineries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.155 is amended to read as follows:

(1) A small winery license shall authorize the licensee to perform the following functions, without having to obtain separate licenses, except that each off-premises retail site shall be separately licensed:

(a) Manufacture wines and bottle wines produced by that small winery in an amount not to exceed fifty thousand (50,000) gallons in one (1) year;

(b) Serve on the premises or at off-premise retail sites complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day, if the small winery or off-premise retail site is located in wet territory;

(c) Sell ***by the drink or*** by the package on premises***,***[~~or~~] at off-premise retail sites, ***and at fairs, festivals, and other similar types of events,*** wine produced on the premises of the small winery or produced by a licensed farm winery, at retail to consumers if all sales sites are located in wet territory;

(d) Sell and transport wine produced on the premises of the small winery to wholesale license holders and to retail package or retail drink license holders, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders; ***and***

(e) Consume on the premises wine produced by the small winery or a licensed farm winery and purchased by the ***drink or by the*** package at the licensed premises, if the small winery is located in wet territory;[~~and~~

~~(f) Obtain a special temporary wine license for the purpose of selling wine produced by the small winery or a farm winery at a fair, festival, or other similar type of event, if the event is held in a wet territory~~].

(2) In accordance with administrative regulations promulgated by the board the holder of a small winery license or farm winery license, upon affidavit filed with the board that grapes, grape juice, other fruits, other fruit juices, or honey produced in Kentucky are not obtainable, may apply for a permit to import these products. The burden of proof shall be

upon the applicant to show that the grapes, grape juice, other fruits, other fruit juices, or honey are not available from any other source within the Commonwealth of Kentucky.

(3) If a licensed small winery is located in a dry territory, KRS 242.230 to 242.430 shall apply.

(4) ***In accordance with the provisions of this section, a small winery license holder may also hold retail drink and package licenses both on and off the premises of the small winery.***

(5) This section shall not exempt the holder of a small winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small winery, except as expressly stated in this section.

Section 2. KRS 243.156 is amended to read as follows:

(1) A farm winery license shall authorize the licensee to perform the following functions, without having to obtain separate licenses:

(a) Manufacture wines and bottle wines at a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, in an amount not to exceed twenty-five thousand (25,000) gallons in one (1) year;

(b) Serve on the premises complimentary samples of wine produced by it in amounts not to exceed four (4) ounces per patron per day, if the farm winery is located in wet territory;

(c) Sell wine produced on the premises of the farm winery or produced by a licensed small winery ***by the drink or*** by the package at retail to consumers, if the farm winery or off-premise retail site is located in wet territory and the wine produced by the small winery is made with Kentucky products;

(d) Sell and transport wine produced on the premises of the farm winery to wholesale liquor license holders and to retail package or retail drink license holders, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders;

(e) Serve complimentary samples or sell wine produced on the premises of the farm winery at another farm winery or small winery sales site, if the other farm winery or small winery sales site is located in wet territory;

(f) Consume on the premises wine produced by the farm winery or a small winery and purchased by the ***drink or by the*** package at the licensed premises, if the farm winery is located in wet territory; and

(g) ***Sell by the drink or by the package***~~[Obtain a special temporary wine license for the purpose of selling]~~ wine produced by the farm winery or a licensed small winery at a fair, festival, or other similar type of event, if the event is held in a wet territory.

(2) A licensed farm winery may establish one (1) off-premise retail sales outlet, if it is located in wet territory.

(3) All of the fresh fruits, fruit juices, or honey used to manufacture wine at a farm winery shall be grown or produced in the Commonwealth of Kentucky.

(4) If a licensed farm winery is located in a dry territory, KRS 242.230 to 242.430 shall apply.

(5) ***In accordance with the provisions of this section, a farm winery license holder may also hold retail drink and package licenses both on and off the premises of the farm winery.***

(6) This section shall not exempt the holder of a farm winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from administrative regulations of the board, except as expressly stated in this section.

SB 126, AN ACT relating to tobacco warehouses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 248.290 is amended to read as follows:

(1) Each warehouse shall pay to the department an annual license fee of ***one***~~[two]~~ hundred ***twenty-five***~~[and seventy-five]~~ dollars ***($125)***~~[($275)]~~. A license fee shall be paid on each warehouse building operated as a place of sale for tobacco, regardless of the number of such buildings owned by any individual, corporation, firm or other type of management organization. It shall be paid on July 1 of each year.

(2) The ***one hundred*** ~~[amount of the license fees less]~~ twenty-five ***dollar***~~[dollars]~~ ***($125) fee***~~[($25)]~~ per license collected by the department shall be ***used by the department to carry out its functions under KRS 248.290 to 248.440***~~[paid into the State Treasury to the credit of a revolving account to be used in the enforcement of KRS 248.350]~~. All fines collected ***for violations of the provisions of KRS 248.350***~~[pursuant to KRS 248.990(10)]~~ shall be paid into ***the State Treasury to the credit of a revolving account to be used in the enforcement of KRS 248.350***~~[this same revolving account]~~.

Section 2. KRS 248.300 is amended to read as follows:

(1) The department shall administer KRS 248.290 to 248.440,~~[excluding KRS 248.350,]~~ and shall have general supervision over the sale of tobacco in warehouses throughout the state.

(2) The Commissioner shall employ such inspectors and other employees as are necessary for the enforcement of KRS 248.290 to 248.440,[~~ excluding KRS 248.350,~~] and fix the duties and compensation of those employees.

Section 3. KRS 248.310 is amended to read as follows:

(1) The inspectors employed under KRS 248.300 shall carry out a general inspection service of all warehouses and shall strictly enforce KRS 248.280 to 248.440[~~, excluding KRS 248.350~~].

(2) An inspector employed by the department may:

(a) Reweigh any reasonable amount of tobacco that has been received by the tobacco warehouse.

(b) Determine the weight of all containers and devices used in the transport for the purpose of weighing tobacco on the warehouse floor and establish a weight tare for each warehouse.

Section 4. KRS 248.353 is amended to read as follows:

(1) ***Compliance with the provisions of*** KRS 248.350 shall be ***monitored by the department with enforcement assistance provided***[~~enforced~~] by the Special Prosecutions Unit of the Office of the Attorney General.

(2) The Attorney General ***at the request of the commissioner***[~~in his discretion~~] (a) may make such public or private investigations within or outside of this state as he deems necessary to determine if any person has violated or is about to violate KRS 248.350 or any ***administrative regulation***[~~rule~~] or order thereunder, or to aid in the enforcement of KRS 248.350 or in the prescribing of ***administrative regulations***[~~rules~~] and forms thereunder, (b) may require or permit any person to file a statement in writing, under oath or otherwise as the Attorney General may determine, as to all the facts and circumstances concerning the matter to be investigated, and (c) may publish information concerning any violation of KRS 248.350 or any ***administrative regulation***[~~rule~~] or order thereunder.

(3) For the purpose of any investigation or proceeding under KRS 248.350, the Attorney General or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the Attorney General deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction, upon application by the Attorney General, may issue to that person an order requiring him to appear before the Attorney General, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.

(5) No person is excused from attending and testifying or from producing any document or record before the Attorney General, or in obedience to the subpoena of the Attorney General or any officer designated by him, or in any proceeding instituted by the Attorney General, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

The Committee on Counties and Special Districts reported **HB 567**, with Committee Substitute attached thereto, **HB 630**, with Committee Substitute attached thereto, **HB 810**, with Committee Substitute attached thereto, **HCR 96**, with Committee Substitute attached thereto, **SB 44**, **SB 45**, with Committee Amendments attached thereto, and **SB 320** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 567, AN ACT relating to the zoning of manufactured housing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

  (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

  (b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit;[~~ and~~]

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247***; and***

(25) "Manufactured home" means a single-family residential dwelling constructed in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq., as amended, and

manufactured after June 15, 1976, and designed to be used as a single-family residential dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. It includes any structure which meets the requirements and complies with the standards established under the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq., as amended and KRS 227.550 to 227.660.

SECTION 2. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth of Kentucky recognizes that the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq., as amended, and the rules and regulations promulgated thereunder, commonly known as the HUD Code, are the construction standards for manufactured housing and may not be preempted or superseded.

(2) The provisions of this section and Section 3 of this Act shall not apply to a mobile home, as defined in KRS 227.550, or to any zoning regulation or ordinance relating to a mobile home.

(3) Cities, counties, urban counties, and charter counties shall not adopt or enforce zoning or other land use regulations or ordinances which exclude manufactured homes from those cities, counties, urban counties, and charter counties or which discriminate against manufactured homes within those cities, counties, urban counties, and charter counties solely because the homes are factory built.

(4) Cities, counties, urban counties and charter counties which adopt and enforce planning and zoning or other land use regulations or ordinances may require that the wheels, axles, permanent hitches, or other towing devices be removed from manufactured homes upon installation on permanent sites.

(5) Manufactured homes shall be placed on foundation systems and shall be installed in accordance with the provisions of KRS 227.570 and the administrative regulations promulgated thereunder.

(6) All cities, counties, urban counties, and charter counties that adopt and enforce planning and zoning or other land use regulations or ordinances shall have two (2) years from the effective date of this Act to review their respective zoning ordinances and land use regulations with respect to the provisions of this section and Section 3 of this Act, and shall cause a detailed written report to be filed for public record which shall contain the following:

  (a) A statement indicating whether the regulations and ordinances of the jurisdiction are in compliance with this section and Section 3 of this Act, and if the jurisdiction is not in compliance, an additional statement detailing its plans to bring its regulations and ordinances into compliance; and

  (b) A listing of the changes made to the local regulations and ordinances to bring them into compliance with this section and Section 3 of this Act, if changes were needed, and if no changes were needed to meet the requirements of this section and Section 3 of this Act, a statement to that effect.

Section 3. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

  (a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

  (b) The size, width, height, bulk, location of structures, buildings and signs;

  (c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

  (d) Intensity of use and density of population floor area to ground area ratios, or other means;

  (e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

  (f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and

  (g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS

100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:

(a) Setback lines may be required for the protection of existing and proposed streets and highways;

(b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and

(c) ***Manufactured homes,*** mobile homes***,*** and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section:

(a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

(b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced.

(9) The text shall permit the placement and use of manufactured homes, as prescribed in subsection (4) of this section, in agricultural zones. Manufactured homes also shall be permitted in residential zones created by map amendment subject to compliance with the same regulations applicable to other homes in the same zone, if the manufactured homes have:

(a) A foundation system anchored in accordance with the state standards set forth in KRS 227.570;

(b) Exterior siding material that is customarily used on site-built dwellings. This includes, but is not limited to, board, plywood, presswood, vinyl, stucco, brick, and nonreflective aluminum;

(c) Roofing material constructed of wood, tile, composition shingles, or other materials compatible with the site-built residential structures in the same zoning district;

(d) Exterior covering material extending from the roofline to the ground, or to the top of the foundation, and also skirting materials that harmonize with the surrounding structures;

(e) Guttering and roof drainage systems installed pursuant to any adopted and enforced requirements placed upon guttering and roof drainage systems where the manufactured home is located; and

(f) Structural additions or alterations that are in compliance with the regulations and requirements that are applicable to a site-built residential structure's additions and alterations; however, manufactured homes are not required to have any structural additions or alterations to be a permitted use in residential zones.

(10) Nothing in this section or Section 2 of this Act shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, deed restrictions, or developers' subdivision restrictions. Nothing in this section and Section 2 of this Act shall remove the authority of the local building inspector to regulate additions to the manufactured home, inspect foundations, or check for aesthetic standards compliance in residential zones, and nothing in this section and Section 2 of this Act shall require a planning and zoning body to modify or change an

existing ordinance which allows single family manufactured housing as a permitted use in residential zones.

The Committee Substitute to **HB 567** is as follows:

AN ACT relating to the zoning of manufactured housing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

  (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

  (b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or

police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit;[~~ and~~]

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247***; and***

(25) "Manufactured home" means a manufactured home as defined in KRS 227.550.

SECTION 2. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this section and Section 3 of this Act shall not apply to a mobile home, as defined in KRS 227.550 or to any zoning regulation or ordinance relating to a mobile home.

(2) This section and Section 3 of this Act shall only apply to new manufactured homes installed on a permanent, continuous masonry or concrete foundation and footer for the first time after the effective date of this Act.

(3) The General Assembly encourages cities, counties, urban-counties, and charter counties not to adopt or enforce zoning or other land use regulations or ordinances that exclude or discriminate against manufactured homes that are factory built in accordance with the National Manufactured Home Construction and Safety Standards Act, 42 U.S.C. sec. 5401 et seq., as amended, and rules and regulations issued thereunder, if the manufactured homes meet all architectural and aesthetic standards required of single-family residential structures in the same zoning district. Nothing in this section or Section 3 of this Act shall be construed to affect, modify, or abolish restrictions contained in recorded deeds, covenants, deed restrictions, or developers' subdivision restrictions.

Section 3. KRS 100.203 is amended to read as follows:

Cities and counties may enact zoning regulations which shall contain:

(1) A text, which shall list the types of zones which may be used, and the regulations which may be imposed in each zone, which must be uniform throughout the zone. In addition, the text shall make provisions for the granting of variances, conditional use permits, and for nonconforming use of land and structures, and any other provisions which are necessary to implement the zoning regulation. The city or county may regulate:

  (a) The activity on the land, including filling or excavation of land, and the removal of natural resources, and the use of watercourses, and other bodies of water, as well as land subject to flooding;

  (b) The size, width, height, bulk, location of structures, buildings and signs;

  (c) Minimum or maximum areas or percentages of areas, courts, yards, or other open spaces or bodies of water which are to be left unoccupied, and minimum distance requirements between buildings or other structures;

  (d) Intensity of use and density of population floor area to ground area ratios, or other means;

  (e) Districts of special interest to the proper development of the community, including, but not limited to, exclusive use districts, historical districts, planned business districts, planned industrial districts, renewal, rehabilitation, and conservation districts; planned neighborhood and group housing districts;

  (f) Fringe areas of each district, by imposing requirements which will make it compatible with neighboring districts; and

  (g) The activities and structures on the land at or near major thoroughfares, their intersections, and interchanges, and transportation arteries, natural or artificial bodies of water, public buildings and public grounds, aircraft, helicopter, rocket and spacecraft facilities, places having unique interest or value, flood plain areas, and other places having a special character or use affecting or affected by their surroundings;

(2) The text may provide that the planning commission, as a condition to the granting of any zoning change, may require the submission of a development plan, which shall be limited to the provisions of the definition contained in KRS 100.111(8). Where agreed upon, this development plan shall be followed. As a further condition to the granting of a zoning change, the planning commission may require that substantial construction be initiated within a certain period of

time of not less than one (1) year; provided that such zoning change shall not revert to its original designation unless there has been a public hearing;

(3) A map, which shall show the boundaries of the area which is to be zoned, and the boundaries of each zone;

(4) Text provisions to the effect that land which is used for agricultural purposes shall have no regulations except that:

(a) Setback lines may be required for the protection of existing and proposed streets and highways;

(b) All buildings or structures in a designated floodway or flood plain or which tend to increase flood heights or obstruct the flow of flood waters may be fully regulated; and

(c) ***Manufactured homes,*** mobile homes, and other dwellings may be permitted but shall have regulations imposed which are applicable, such as zoning, building, and certificates of occupancy;

(5) The text may empower the planning commission to hear and finally decide applications for variances or conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits;

(6) In any regulation adopted pursuant to subsection (5) of this section:

(a) The text shall provide that the planning commission shall assume all powers and duties otherwise exercised by the board of adjustments pursuant to KRS 100.231, 100.233, 100.237, 100.241, 100.243, 100.247, and 100.251, in a circumstance provided for by subsection (5) of this section; and

(b) The text shall provide that the applicant for the map amendment, at the time of the filing of the application for the map amendment, may elect to have any variances or conditional use permits for the same development to be heard and finally decided by the planning commission at the same public hearing set for the map amendment, or by the board of adjustments as otherwise provided for in this chapter;

(7) Any judicial proceeding to appeal the planning commission action authorized by subsection (5) of this section in granting or denying any variance or conditional use permit shall be taken pursuant to KRS 100.347(2);

(8) In urban-county governments, in addition to any other powers permitted or required to be exercised by this chapter, the text of the zoning regulations may provide, as a condition to granting a map amendment, that the planning unit may:

(a) Restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category;

(b) Impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and

(c) Impose screening and buffering restrictions upon the subject property;

The text shall provide the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced.

HB 630, AN ACT relating to constables.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.527 is amended to read as follows:

In order to equate the compensation of county judges/executive, county clerks, sheriffs, jailers, ***constables,*** justices of the peace, county commissioners, and coroners with the purchasing power of the dollar, the Department of Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The Department of Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Department of Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department of Local Government.

The Committee Substitute to **HB 630** is as follows:

AN ACT relating to constables.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.527 is amended to read as follows:

In order to equate the compensation of county judges/executive, county clerks, sheriffs, jailers, ***constables in counties having an urban-county form of government,*** justices of the peace, county commissioners, and coroners with the purchasing power of the dollar, the Department of Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The Department of Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Department of Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department of Local Government.

HB 810, AN ACT relating to public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

(2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks and sheriffs shall be fixed by the Department of Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.

(3) The salary schedule for county judges/executive, county clerks, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the University of Louisville Urban Center's annual estimates. To implement the salary schedule, the Department of Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the University of Louisville Urban Center. For the purposes of this section, the salary schedule for county judges/executive, county clerks, and sheriffs shall remain as determined by the Department of Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department of Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	*Steps and Salary for Affected Officers*			
Group I	*Step 1*	*Step 2*	*Step 3*	*Step 4*
0-4,999	*$ 6,600*	*$ 6,800*	*$ 7,000*	*$ 7,200*
Group II				
5,000-9,999	*7,200*	*7,400*	*7,600*	*7,800*
Group III				
10,000-19,999	*7,800*	*8,000*	*8,200*	*8,400*
Group IV				
20,000-29,999	*8,100*	*8,400*	*8,700*	*9,000*
Group V				
30,000-44,999	*8,700*	*9,000*	*9,300*	*9,600*
Group VI				
45,000-59,999	*9,000*	*9,400*	*9,800*	*10,200*
Group VII				
60,000-89,999	*9,600*	*10,000*	*10,400*	*10,800*

Group VIII				
90,000-499,999	***9,900***	***10,400***	***10,900***	***11,400***
Group IX				
500,000 and up	***10,500***	***11,000***	***11,500***	***12,000***

(4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department of Local Government shall fix the salary of the county judge/executive, county clerk, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.

(5) Notwithstanding any provision contained in Section 1 of this Act, no county official holding office on the effective date of this Act, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on the effective date of this Act.

(6) In addition to the step increases based on service in office, each officer shall be paid an increase of one hundred dollars ($100) for each forty (40) hour training unit successfully completed. Each training unit shall be approved and certified by the Department of Local Government. Each unit shall be available to officials in each office based on continuing service in that office.

(7) Justices of the peace who serve on fiscal courts and county commissioners shall also be eligible for the training and resulting one hundred dollars ($100) per forty (40) hour unit increase.

Section 2. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary ***pursuant to the salary schedule in Section 1 of this Act***[~~of fourteen thousand three hundred dollars ($14,300)~~].

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be approved by the fiscal court in counties containing a city of the first class and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court or urban-county legislative body under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller created pursuant to KRS 42.0201. In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

(3) Each officer shall, on the first day of each month, send to the Finance and Administration Cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with these statements, send to the Finance and Administration Cabinet the amount so collected or received. The Finance and Administration Cabinet may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Finance and Administration Cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Finance and Administration Cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Finance and Administration Cabinet by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be approved at reasonable amounts upon motion of each officer by the fiscal court in counties containing a city of the first class and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court or urban-county legislative body under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable

amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

Section 3. KRS 64.347 is amended to read as follows:

The population of a county shall, for the purposes of KRS [~~64.345 and~~]64.346, be determined by the most recent federal decennial census enumeration, provided however that the provisions of those sections and subsections shall not become operative to such officers mentioned therein during their term, in counties determined to have acquired, since the last census, a population of more than 75,000.

Section 4. KRS 64.527 is amended to read as follows:

In order to equate the compensation of [~~county judges/executive, county clerks, sheriffs,~~]jailers, justices of the peace, county commissioners, and coroners with the purchasing power of the dollar, the Department of Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The Department of Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Department of Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department of Local Government.

Section 5. KRS 64.535 is amended to read as follows:

The county ***judge/executive, clerk, and sheriff shall each receive a monthly salary of one-twelfth (1/12) of the amount indicated by the salary schedule in Section 1 of this Act***[~~clerk, county judge/executive and sheriff of each county shall receive a maximum monthly salary of one-twelfth (1/12) of fourteen thousand three hundred dollars ($14,300) to be paid solely out of the statutory fees and salaries received by him during the calendar year~~].

Section 6. KRS 67.705 is amended to read as follows:

(1) Each county shall have a chief executive officer known as the county judge/executive. Only a resident of the county shall be eligible for election as county judge/executive. He shall be nominated and elected by the qualified voters of the county in the manner provided by law for the election of county officers. In case the office of county judge/executive becomes vacant by reason of death, resignation, or removal, it shall be filled with a person appointed by the Governor, in accordance with Section 152 of the Constitution, for the unexpired term.

(2) The [~~salary of the~~]county judge/executive shall ***receive an annual salary pursuant to the salary schedule in Section 1 of this Act, except in counties that contain an urban-county form of government, where the county judge/executive shall receive the salary set by the legislative body***[~~be set by the fiscal court~~].

(3) [~~Except in urban-county governments, the minimum annual compensation paid to the county judge/executive shall be the greater of a sum not less than sixty percent (60%) of the maximum compensation certified under KRS 64.527, or not less than the annual compensation of the sheriff or county clerk or jailer in the county, except that no fiscal court shall be required under provisions of this section to approve an amount for the compensation of any one (1) official which would exceed six percent (6%) of the county's total annual general fund receipts including federal revenue sharing moneys.~~

~~(4)~~] In no event shall the county judge/executive, justice of the peace, magistrate, or commissioners who serve on the fiscal court holding office on January 2, 1978, receive less than the total annual compensation received by that official during calendar year 1976.

The Committee Substitute to **HB 810** is as follows:

AN ACT relating to public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service or life safety jail, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

(2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service or life safety jail, and sheriffs shall be fixed by the Department of Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the

Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.

(3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service or life safety jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census annual estimates. To implement the salary schedule, the Department of Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service or life safety jail, and sheriffs shall remain as determined by the Department of Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department of Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$ 6,600	$ 6,800	$ 7,000	$ 7,200
Group II 5,000-9,999	7,200	7,400	7,600	7,800
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Group IV 20,000-29,999	8,100	8,400	8,700	9,000
Group V 30,000-44,999	8,700	9,000	9,300	9,600
Group VI 45,000-59,999	9,000	9,400	9,800	10,200
Group VII 60,000-89,999	9,600	10,000	10,400	10,800
Group VIII 90,000-499,999	9,900	10,400	10,900	11,400
Group IX 500,000 and up	10,500	11,000	11,500	12,000

(4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department of Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service or life safety jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.

(5) Notwithstanding any provision contained in Section 1 of this Act, no county official holding office on the effective date of this Act, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on the effective date of this Act.

(6) In addition to the step increases based on service in office, each officer shall be paid an increase of one hundred dollars ($100) for each forty (40) hour training unit successfully completed. Each training unit shall be approved and certified by the Department of Local Government. Each unit shall be available to officials in each office based on continuing service in that office.

(7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts and county commissioners shall also be eligible for the training and resulting one hundred dollars ($100) per forty (40) hour unit increase.

Section 2. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary ***pursuant to the salary schedule in Section 1 of this Act***[~~of fourteen thousand three hundred dollars ($14,300)~~].

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be approved by the fiscal court in counties containing a city of the first class and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court or urban-county legislative body under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller created pursuant to KRS 42.0201. In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

(3) Each officer shall, on the first day of each month, send to the Finance and Administration Cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with these statements, send to the Finance and Administration Cabinet the amount so collected or received. The Finance and Administration Cabinet may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Finance and Administration Cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Finance and Administration Cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Finance and Administration Cabinet by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be approved at reasonable amounts upon motion of each officer by the fiscal court in counties containing a city of the first class and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class and by the executive authority in a county having an urban-county form of government. Approval by the fiscal court or urban-county legislative body under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

Section 3. KRS 64.347 is amended to read as follows:

The population of a county shall, for the purposes of KRS [~~64.345 and~~]64.346, be determined by the most recent federal decennial census enumeration, provided however that the provisions of those sections and subsections shall not become operative to such officers mentioned therein during their term, in counties determined to have acquired, since the last census, a population of more than 75,000.

Section 4. KRS 64.527 is amended to read as follows:

In order to equate the compensation of[~~county judges/executive, county clerks, sheriffs, jailers,~~] justices of the peace, county commissioners, and coroners with the purchasing power of the dollar, the Department of Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The Department of Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Department of Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department of Local Government.

Section 5. KRS 64.535 is amended to read as follows:

The county ***judge/executive, clerk, jailer who operates a full service or life safety jail, and sheriff shall each receive a monthly salary of one-twelfth (1/12) of the amount indicated by the salary schedule in Section 1 of this Act***~~[clerk, county judge/executive and sheriff of each county shall receive a maximum monthly salary of one twelfth (1/12) of fourteen thousand three hundred dollars ($14,300) to be paid solely out of the statutory fees and salaries received by him during the calendar year]~~.

Section 6. KRS 67.705 is amended to read as follows:

(1) Each county shall have a chief executive officer known as the county judge/executive. Only a resident of the county shall be eligible for election as county judge/executive. He shall be nominated and elected by the qualified voters of the county in the manner provided by law for the election of county officers. In case the office of county judge/executive becomes vacant by reason of death, resignation, or removal, it shall be filled with a person appointed by the Governor, in accordance with Section 152 of the Constitution, for the unexpired term.

(2) The ~~[salary of the]~~county judge/executive shall ***receive an annual salary pursuant to the salary schedule in Section 1 of this Act, except in counties that contain an urban-county form of government, where the county judge/executive shall receive the salary set by the legislative body***~~[be set by the fiscal court]~~.

(3) ~~[Except in urban county governments, the minimum annual compensation paid to the county judge/executive shall be the greater of a sum not less than sixty percent (60%) of the maximum compensation certified under KRS 64.527, or not less than the annual compensation of the sheriff or county clerk or jailer in the county, except that no fiscal court shall be required under provisions of this section to approve an amount for the compensation of any one (1) official which would exceed six percent (6%) of the county's total annual general fund receipts including federal revenue sharing moneys.~~

~~(4)]~~ In no event shall the county judge/executive, justice of the peace, magistrate, or commissioners who serve on the fiscal court holding office on January 2, 1978, receive less than the total annual compensation received by that official during calendar year 1976.

Section 7. KRS 441.245 is amended to read as follows:

(1) The jailer ***who operates a full service or life safety jail*** shall receive a monthly salary ***pursuant to the salary schedule in Section 1 of this Act*** from the county jail operating budget.

(2)~~[In recognition of the increased duties and responsibilities of the office of jailer, jailers holding office on July 1, 1982, shall be entitled to a level of compensation in calendar year 1982 which shall be equal to the compensation of jailer in calendar year 1981 as adjusted for the change in the consumer price index during calendar year 1981 or $12,000, whichever is greater. The fiscal court may establish a higher level of compensation for the jailer, provided, however, that in no event shall the jailer's compensation exceed the maximum compensation allowable for county officials under KRS 64.527. In the event that a jail was closed during calendar year 1981, the secretary of finance may, upon proper documentation by the jailer, direct that a prior calendar year's level of compensation be used as a basis for setting the jailer's compensation pursuant to this section.~~

~~(3) The jailer's monthly salary for the period July, 1982, through December, 1982, shall be the jailer's compensation for calendar year 1982 as provided in subsection (2) of this section less the jailer's earnings for January through June, 1982, divided by six (6).~~

~~(4) Except as provided in subsection (5) of this section, the jailer's compensation for 1983 and subsequent years shall equal the prior year's compensation and may be adjusted by the fiscal court for the change in the prior year's consumer price index.~~

~~(5)]~~ Effective January 6, 1986, the salary for jailers in any county where there is no jail and the jailer does not transport prisoners shall be twelve thousand dollars ($12,000) per year.

HCR 96, A CONCURRENT RESOLUTION creating a task force on planning and zoning.

WHEREAS, it has been determined by the General Assembly that the current planning and zoning statutes, as codified in KRS Chapter 100, have not been updated in a comprehensive manner for well over thirty (30) years; and

WHEREAS, during the past thirty (30) years, many innovative planning techniques have been developed within a number of states that could have application to solving many of the problems of land use occurring within the Commonwealth; and

WHEREAS, the Commonwealth is experiencing rapid growth and land-use change on the peripheries of its major urban centers; and

WHEREAS, this growth and land-use change has had an impact on development patterns, traffic, air, and water resources, open space, availability of affordable housing, and the ability of local governments to finance public facilities and service improvements in a coordinated fashion; and

WHEREAS, new growth and development in the state have been uneven and imbalanced, with rural areas, small towns and older portions of our large urban areas losing economic viability, resulting in out migration, loss of revenue, disinvestment, and increased unemployment; and

WHEREAS, this imbalance in growth and development has resulted in loss of community character in all parts of the Commonwealth and in an imbalance of economic opportunity to its citizens; and

WHEREAS, many of the problems of growth and development are inter-jurisdictional and require cooperation, coordination, and creative partnerships by all levels of government; and

WHEREAS, this growth and development have in some cases resulted in heightened exposure of property to the effects of natural hazards, requiring additional public expenditures for repair, replacement, and mitigation after national disasters; and

WHEREAS, there is a need to utilize newly developed tools to address growth and development to bring about better coordination and planning and project implementation between state and local governments, particularly as state projects impact local communities and their local planning efforts, and between state and regional, regional and local, and between the local governments; and

WHEREAS, there is a need to establish a mechanism that will ensure continuity in the setting of goals and policies, and implementation beyond the four (4) year cycle that has been experienced during the past seventy (70) years, so that planning efforts transcend administrations and have the means to require accountability for implementation.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. There is created a statewide planning and zoning task force. The task force shall be twenty-four (24) members composed of the following:

(1) The chairs of the House Cities Committee, House Counties and Special Districts Committee, and Senate State and Local Government Committee;

(2) Three (3) members of the Senate to be selected by the President of the Senate;

(3) Three (3) members of the House to be selected by the Speaker of the House;

(4) Three (3) representatives to be selected by the Legislative Research Commission (LRC) from the Kentucky League of Cities, with one (1) representative from a city with a population of over twenty thousand (20,000) citizens; one (1) from a city with a population of less than twenty thousand (20,000) citizens, but greater than eight thousand (8,000) citizens; and one (1) from a city with less than eight thousand (8,000) citizens;

(5) Two (2) representatives from the Kentucky Association of Counties, selected by the LRC from a list of six (6) submitted by the association, with one (1) from an urban county and one (1) from a rural county;

(6) One (1) representative from the County Judges/Executive Association, selected by the LRC from a list of three (3) submitted by the association;

(7) Two (2) representatives from the Kentucky Chapter of the American Planning Association with one (1) representing an urban setting and one (1) representing a rural setting, selected by the LRC from a list of six (6) submitted by the association;

(8) The commissioner of the Department of Local Government or the commissioner's official designee;

(9) One (1) representative from the Kentucky Homebuilders Association, selected by the LRC from a list of three (3) submitted by the association;

(10) The secretary of the Natural Resources and Environmental Protection Cabinet, or the secretary's official designee;

(11) One (1) representative from the Kentucky Municipal Attorneys Association, selected by the LRC from a list of three (3) submitted by the association;

(12) One (1) representative from the Kentucky Chamber of Commerce, selected by the LRC from a list of three (3) submitted by the chamber;

(13) The president of the Kentucky Geographic Information Systems Advisory Committee, or the president's official designee; and

(14) The chair of the Kentucky Long Term Policy Research Board, or the chair's official designee.

Section 2. The task force shall:

(1) Evaluate the effectiveness of current state, regional, and local planning and land-use laws;

(2) Survey state and regional agencies, local governments, and the private sector to determine the extent and type of planning techniques and land-use tools being used, survey the agencies' and local governments' attitudes toward the current system of planning techniques, and identify desired new tools;

(3) Survey developers, builders, contractors, planners, engineers, environmentalists, attorneys, citizens groups, and local

government agencies about problems associated with the current system and seek their advice on possible solutions to those problems;

(4) Review model legislation and studies on planning and land-use systems being initiated at the national level, including research that has recently been performed by the American Planning Association entitled, "Growing Smart Legislative Guidebook -- Model Statutes for Planning and the Management of Change", and collect information on states that have undertaken recent reform efforts and have working systems;

(5) Identify public information, training, and technical assistance needs by state and regional agencies and local governments related to planning and land use;

(6) Identify incentives or techniques for sharing the benefits of economic growth and eliminating or reducing fiscal competition among local governments;

(7) Propose initiatives for the development of geographic information systems to support planning and land use at all levels of government;

(8) Propose innovative and cooperative planning and land-use approaches that will accommodate and guide growth and development, ensure the planning and construction of adequate supporting services and infrastructures, including utilities, storm water management systems, and transportation, provide opportunities for or eliminate barriers to affordable housing, protect the environment, and minimize exposure to natural hazards;

(9) Examine and evaluate methods of coordinating activities of the General Assembly and state agencies relating to matters of growth and development, and stabilization and revitalization of existing communities and urban areas, including, but not limited to, the consideration of a statewide planning process and the establishment of state goals and policies to guide state strategic and function planning and regional and local planning;

(10) Evaluate and recommend approaches that will balance the advancement of the public interest with the protection of private property rights and ensure certainty in the planning and land-use systems and streamlined and efficient administrative and judicial review of development proposals;

(11) Stimulate statewide discussion on problems related to planning and land-use change, identify alternative planning, regulatory, and capital investment solution, and attempt to reach a consensus of desired approaches;

(12) Examine public participation provisions and propose any changes needed to assure that at every phase of the development, amendment, implementation, and enforcement of planning and zoning requirements, meaningful notice and opportunity to be heard is accorded to those with an interest which may be affected;

(13) Examine a range of options for increasing involvement by the community in a constructive and deliberative manner in planning and zoning decisions, and for dispute resolution and mediation as planning and zoning tools; and

(14) Examine whether changes are needed in planning and zoning laws to assure that the constitutional protections of all parties, including First Amendment protections, are not abridged by any party to the planning and zoning process.

Section 3. The task force may hold public hearings on a regional basis throughout the state, take testimony, and make its investigation in the locations deemed necessary by the chair of the task force.

Section 4. The co-chairs of the Legislative Research Commission shall select a chair and a vice chair of the task force.

Section 5. The study shall begin July, 1998, and shall report to the Legislative Research Commission in October of 1999.

Section 6. Nonlegislative members shall serve without pay, but shall be reimbursed for their reasonable and necessary expenses in connection with the performance of their duties. Legislative members of the commission shall receive their usual per diem as indicated in KRS 7.110(5) for the attendance of meetings, including reimbursement for their reasonable and necessary expenses in connection with the performance of their duties.

Section 7. Staff services to be utilized in completing this study are estimated to cost fifty thousand dollars ($50,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Substitute to **HCR 96** is as follows:

A CONCURRENT RESOLUTION creating a task force on planning and zoning.

WHEREAS, it has been determined by the General Assembly that the current planning and zoning statutes, as codified in KRS Chapter 100, have not been updated in a comprehensive manner for well over thirty (30) years; and

WHEREAS, during the past thirty (30) years, many innovative planning techniques have been developed within a number of states that could have application to solving many of the problems of land use occurring within the Commonwealth; and

WHEREAS, the Commonwealth is experiencing rapid growth and land-use change on the peripheries of its major urban centers; and

WHEREAS, this growth and land-use change has had an impact on development patterns, traffic, air, and water resources, open space, availability of affordable housing, and the ability of local governments to finance public facilities and service improvements in a coordinated fashion; and

WHEREAS, new growth and development in the state have been uneven and imbalanced, with rural areas, small towns and older portions of our large urban areas losing economic viability, resulting in out migration, loss of revenue, disinvestment, and increased unemployment; and

WHEREAS, this imbalance in growth and development has resulted in loss of community character in all parts of the Commonwealth and in an imbalance of economic opportunity to its citizens; and

WHEREAS, many of the problems of growth and development are inter-jurisdictional and require cooperation, coordination, and creative partnerships by all levels of government; and

WHEREAS, this growth and development have in some cases resulted in heightened exposure of property to the effects of natural hazards, requiring additional public expenditures for repair, replacement, and mitigation after national disasters; and

WHEREAS, there is a need to utilize newly developed tools to address growth and development to bring about better coordination and planning and project implementation between state and local governments, particularly as state projects impact local communities and their local planning efforts, and between state and regional, regional and local, and between the local governments; and

WHEREAS, there is a need to establish a mechanism that will ensure continuity in the setting of goals and policies, and implementation beyond the four (4) year cycle that has been experienced during the past seventy (70) years, so that planning efforts transcend administrations and have the means to require accountability for implementation.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. There is created a statewide planning and zoning task force. The task force shall be twenty-five (25) members composed of the following:

(1) The chairs of the House Cities Committee, House Counties and Special Districts Committee, and Senate State and Local Government Committee;

(2) Three (3) members of the Senate to be selected by the President of the Senate;

(3) Three (3) members of the House to be selected by the Speaker of the House;

(4) Three (3) representatives to be selected by the Legislative Research Commission (LRC) from the Kentucky League of Cities, with one (1) representative from a city with a population of over twenty thousand (20,000) citizens; one (1) from a city with a population of less than twenty thousand (20,000) citizens, but greater than eight thousand (8,000) citizens; and one (1) from a city with less than eight thousand (8,000) citizens;

(5) Two (2) representatives from the Kentucky Association of Counties, selected by the LRC from a list of six (6) submitted by the association, with one (1) from an urban county and one (1) from a rural county;

(6) One (1) representative from the County Judges/Executive Association, selected by the LRC from a list of three (3) submitted by the association;

(7) Two (2) representatives from the Kentucky Chapter of the American Planning Association with one (1) representing an urban setting and one (1) representing a rural setting, selected by the LRC from a list of six (6) submitted by the association;

(8) The commissioner of the Department of Local Government or the commissioner's official designee;

(9) One (1) representative from the Kentucky Homebuilders Association, selected by the LRC from a list of three (3) submitted by the association;

(10) The secretary of the Natural Resources and Environmental Protection Cabinet, or the secretary's official designee;

(11) One (1) representative from the Kentucky Municipal Attorneys Association, selected by the LRC from a list of three (3) submitted by the association;

(12) One (1) representative from the Kentucky Chamber of Commerce, selected by the LRC from a list of three (3) submitted by the chamber;

(13) The president of the Kentucky Geographic Information Systems Advisory Committee, or the president's official designee;

(14) The chair of the Kentucky Long Term Policy Research Board, or the chair's official designee; and

(15) One (1) representative from the Kentucky Manufactured Housing Institute selected by the LRC from a list of three (3) submitted by the institute.

Section 2. The task force shall:

(1) Evaluate the effectiveness of current state, regional, and local planning and land-use laws;

(2) Survey state and regional agencies, local governments, and the private sector to determine the extent and type of planning techniques and land-use tools being used, survey the agencys' and local governments' attitudes toward the current system of planning techniques, and identify desired new tools;

(3) Survey developers, builders, contractors, planners, engineers, environmentalists, attorneys, citizens groups, and local government agencies about problems associated with the current system and seek their advice on possible solutions to those problems;

(4) Review model legislation and studies on planning and land-use systems being initiated at the national level, including research that has recently been performed by the American Planning Association entitled, "Growing Smart Legislative Guidebook – Model Statutes for Planning and the Management of Change", and collect information on states that have undertaken recent reform efforts and have working systems;

(5) Identify public information, training, and technical assistance needs by state and regional agencies and local governments related to planning and land use;

(6) Identify incentives or techniques for sharing the benefits of economic growth and eliminating or reducing fiscal competition among local governments;

(7) Propose initiatives for the development of geographic information systems to support planning and land use at all levels of government;

(8) Propose innovative and cooperative planning and land-use approaches that will accommodate and guide growth and development, ensure the planning and construction of adequate supporting services and infrastructures, including utilities, storm water management systems, and transportation, provide opportunities for or eliminate barriers to affordable housing, protect the environment, and minimize exposure to natural hazards;

(9) Examine and evaluate methods of coordinating activities of the General Assembly and state agencies relating to matters of growth and development, and stabilization and revitalization of existing communities and urban areas, including, but not limited to, the consideration of a statewide planning process and the establishment of state goals and policies to guide state strategic and function planning and regional and local planning;

(10) Evaluate and recommend approaches that will balance the advancement of the public interest with the protection of private property rights and ensure certainty in the planning and land-use systems and streamlined and efficient administrative and judicial review of development proposals;

(11) Stimulate statewide discussion on problems related to planning and land-use change, identify alternative planning, regulatory, and capital investment solution, and attempt to reach a consensus of desired approaches;

(12) Examine public participation provisions and propose any changes needed to assure that at every phase of the development, amendment, implementation, and enforcement of planning and zoning requirements, meaningful notice and opportunity to be heard is accorded to those with an interest which may be affected;

(13) Examine a range of options for increasing involvement by the community in a constructive and deliberative manner in planning and zoning decisions, and for dispute resolution and mediation as planning and zoning tools; and

(14) Examine whether changes are needed in planning and zoning laws to assure that the constitutional protections of all parties, including First Amendment protections, are not abridged by any party to the planning and zoning process.

Section 3. The task force may hold public hearings on a regional basis throughout the state, take testimony, and make its investigation in the locations deemed necessary by the chair of the task force.

Section 4. The co-chairs of the Legislative Research Commission shall select a chair and a vice chair of the task force.

Section 5. The study shall begin July, 1998, and shall report to the Legislative Research Commission in October of 1999.

Section 6. Nonlegislative members shall serve without pay, but shall be reimbursed for their reasonable and necessary expenses in connection with the performance of their duties. Legislative members of the commission shall receive their usual per diem as indicated in KRS 7.110(5) for the attendance of meetings, including reimbursement for their reasonable and necessary expenses in connection with the performance of their duties.

Section 7. Staff services to be utilized in completing this study are estimated to cost fifty thousand dollars ($50,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

SB 44, AN ACT relating to local government financial information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.905 is amended to read as follows:

(1) ***Except as otherwise provided in subsection (2) of this section,*** each local government ***as defined in KRS 65.900*** shall annually, after the close of the fiscal year, complete a uniform financial information report. The report shall be submitted

to the Department of Local Government by May 1 immediately following the close of the fiscal year. The Department of Local Government shall immediately send one (1) copy of the uniform financial information report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.

(2) ***The final quarterly report filed by a county within fifteen (15) days after the end of the last quarter of the fiscal year, in accordance with KRS 68.360(2), shall be deemed the uniform financial information report for that county for purposes of compliance with KRS 65.900 to 65.925, if that quarterly report contains, at a minimum, all information required by KRS 65.910.***

(3) Each city may have the uniform financial information report completed by its selected auditor as part of the terms and conditions of the written agreement between the city and the auditor pursuant to KRS 91A.040. Each county may have the uniform financial information report completed by its auditor selected pursuant to KRS 43.070 or 64.810. Each special district may have the uniform financial information report completed by its auditor selected pursuant to KRS 65.065. If a city does not use the auditor to complete the uniform financial information report, it shall by order designate an elected or nonelected official to be responsible for annually completing the report and submitting it to the Department of Local Government. If a local government has any agency, board, or commission that receives any funding from the local government, but conducts its operations on an autonomous or semi-autonomous basis, the local government shall note on the uniform financial information report the name of the agency, board, or commission; the mailing address of the agency, board, or commission; and the dollar amount annually appropriated by the local government to the agency, board, or commission.

(4)[~~(3)~~] The Department of Local Government shall by administrative regulation prescribe the format of the uniform financial information report. The department shall attempt to coordinate and combine efforts with the United States Bureau of the Census in the development of the format of the uniform financial information report so that a single report will meet the needs of both agencies and fulfill the requirements of KRS 65.900 to 65.925. Regardless of any agreement between the Department of Local Government and the United States Bureau of the Census, the department shall maintain responsibility for assuring that a uniform financial information report is distributed to each local government as soon as practicable after the close of each fiscal year, but in no event later than one hundred twenty (120) days prior to the required submission date of May 1.

(5)[~~(4)~~] The Department of Local Government shall use the uniform financial information report to replace as many financial information forms as possible that local governments are currently required to complete and submit to the department for use by either the state or federal governments, by consolidating the required information into the uniform report.

Section 2. KRS 65.920 is amended to read as follows:

Any local government that fails to submit annually a uniform financial information report to the Department of Local Government shall be ineligible to receive county or municipal road aid moneys pursuant to KRS 177.360 or 177.366. Any local government receiving road aid moneys pursuant to KRS 177.365 to 177.369 or KRS 177.320 and 177.360 that fails to comply with the provisions of KRS 65.900 to 65.915 shall immediately have all road aid payments suspended until the local government submits the uniform financial information report to the Department of Local Government. ***If a local government receives payments of money from the Commonwealth and fails to comply with the provisions of KRS 65.900 to 65.925 or KRS 92.280(1), the state local finance officer may notify those agencies making payments to the local government of noncompliance, and those agencies shall immediately suspend delivery of all payments to the local government except those payments made pursuant to KRS Chapter 154 or KRS 42.4588, until the state local finance officer determines that the local government has complied with the requirements of KRS 65.900 to 65.925 or KRS 92.280(1).***

SB 45, AN ACT relating to county budgets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.260 is amended to read as follows:

(1) The proposed county budget, tentatively approved by the fiscal court and approved by the state local finance officer as to form and classification shall be submitted to the fiscal court for adoption not later than July 1 of each year or within ten (10) days after receipt of the certified assessment from the Revenue Cabinet, as provided in KRS 133.180, whichever shall be later. The budget as presented and amended shall be adopted as of July 1. The county judge/executive shall cause a copy of the proposed budget to be posted in a conspicuous place in the courthouse near the front door, and be published pursuant to KRS Chapter 424, at least ***seven (7)***[~~ten (10)~~] days before final adoption by the fiscal court.

(2) Any taxpayer or group of taxpayers may petition the fiscal court in respect to the budget or any part thereof before final adoption.

(3) If the fiscal court rejects any part of the proposed budget, it shall make the changes in the nature and amount of funds a majority of the court considers desirable; but it has no power to make any change in the form or classification of the budget units or subdivisions of units.

The Committee Amendment No. 1 to **SB 45** is as follows:

On page 1, after line 16, add the following language:

"Section 2. KRS 371.160 is amended to read as follows:

(1) If, in any contract in the amount of five hundred thousand dollars ($500,000) or more involving the improvement of real estate, a certain amount or percentage of the contract is held back by the owner, that retained amount shall be deposited in a separate escrow account with a bank or trust company authorized to do business in the Commonwealth of Kentucky.

(2) As of the time of the deposit of the retained funds, they shall become the sole and separate property of the contractor to whom they are owed.

(3) The escrow agent shall promptly invest all escrowed principal in obligations selected by the escrow agent in its discretion.

(4) Upon satisfactory completion of the contract, to be evidenced by a written release by the owner, all funds accumulated in the escrow account, together with any interest thereon, shall be paid immediately to the contractor to whom it is owed.

(5) The escrow agent shall be compensated for its services in an amount agreed to by the owner, contractor, and escrow agent. The compensation shall be a commercially reasonable fee commensurate with fees being charged for handling of escrow accounts of similar size and duration. The compensation shall be paid from the escrow account.

(6) In the event the owner fails or refuses to execute the release provided for in subsection (4) of this section, then the contractor shall have a cause of action against the owner in a court of proper jurisdiction.

(7) This section shall not apply to contracts with the Commonwealth***, any county, charter county, urban-county government, or municipality, or any other political subdivision, agency, or instrumentality of the Commonwealth,*** or school boards.".

The Committee Amendment No. 2 Title to **SB 45** is as follows:

Amend the title to read as follows:

"AN ACT relating to local government budgets and escrow accounts.".

SB 320, AN ACT relating to the County Employees Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick-leave for each retiring employee.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees ***participating under this section***.

(3) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member pays to the retirement system the value of the additional service credit based on the formula adopted by the board.

(4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill the employer accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) As an alternative to subsections (1), (3),~~[and]~~ (4)***, and (6)*** of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees***, or administered to a majority of eligible employees in accordance with subsection (6) of this section,*** shall, at the time of termination, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the annual salary of the final year of service, if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment. The number of sick-leave days for which

the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation.

(6) Any city of the first class that has two (2) or more sick leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick leave program administered to a majority of the eligible employees of the city. An employee participating in a sick leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under this subsection when the employee commences participating in the sick leave program that is administered to a majority of the eligible employees of the city.

The Committee on Education reported **HB 216, HB 522,** with Committee Substitute attached thereto, **HB 536,** with Committee Substitute attached thereto, **HB 616,** with Committee Substitute and Committee Amendment attached thereto, **HB 681, HB 706, HB 724, HB 779, HB 782,** with Committee Substitute and Committee Amendment attached thereto, **HB 805, HB 815, HB 859,** with Committee Substitute attached thereto, **HB 900,** with Committee Substitute attached thereto, and **HB 920,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 216, AN ACT relating to the calculation of average daily attendance for school funding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school ***adjusted for weather-related low attendance days if applicable***, divided by the actual number of days the school is in session;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the chief state school officer. The chief state school officer shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred and forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year.

(11) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;

(12) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(13) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(15) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year.

(16) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board.

(17) "Weather-related low attendance day" means a school day on which the district's attendance falls below the percentage of average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance is due to inclement weather, for approval by the Kentucky Board of Education in accordance with its administrative regulations.

HB 522, AN ACT relating to superintendent screening committees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.352 is amended to read as follows:

(1) For purposes of this section the term "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in a local school district.

(2) Each board of education shall appoint a superintendent of schools after receiving the recommendations of a screening committee. A screening committee shall be established within thirty (30) days of a determination by a board of education that a vacancy has occurred or will occur in the office of superintendent, except that when the board determines a vacancy will not occur before six (6) months from the date of determination, the board shall establish a screening committee at least ninety (90) days before the first date on which the position may be filled.

(3) A screening committee shall be composed of:

(a) Two (2) teachers, elected by the teachers in the district;

(b) One (1) board of education member, appointed by the board chairman;

(c) One (1) principal, elected by the principals in the district;

(d) One (1) parent, elected by the presidents of the parent-teacher organizations of the schools in the district;[~~and~~]

(e) ***One (1) classified employee, elected by the classified employees in the district; and***

(f) If a minority member is not elected or appointed to a screening committee in districts with a minority population of eight percent (8%) or more, as determined by the enrollment on the preceding October 1, the committee membership shall be increased to include one (1) minority parent. This minority parent member shall be elected by the parents in an election conducted by the local school board. Parents in the district shall be given adequate notice of the date, time, place, and purpose of the election.

(4) Prior to appointing a superintendent of schools, the board of education shall consider the recommendations of the screening committee, but the board shall not be required to appoint a superintendent from the committee's recommendations.

The Committee Substitute to **HB 522** is as follows:

AN ACT relating to superintendent screening committees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.350 is amended to read as follows:

(1) After ***receiving three (3)***~~[considering the]~~ recommendations of a screening committee, as provided in KRS 160.352, each board of education shall appoint a superintendent of schools ***from the screening committee's list*** whose term of office shall begin on July 1, following his appointment. The appointment may be for a term of no more than four (4) years. In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. Therefore, the board may appoint a superintendent for a new term as provided in this subsection, which shall begin on the date of the superintendent's appointment, except when the vacancy occurs after a school board election and before the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months. The person appointed to serve as acting superintendent shall not be an applicant for, nor be appointed to, the position of superintendent. If a vacancy occurs, a local board may also appoint an acting superintendent during the period the screening committee pursuant to KRS 160.352 conducts its business and prior to the actual appointment of the new superintendent. No superintendent shall resign his term and accept a new term from the same board of education prior to the expiration date of his present term. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. The board shall set the salary of the superintendent to be paid in regular installments.

(2) Before any superintendent assumes his duties, he shall present to the board of education that appointed him a statement signed by the chief state school officer that the superintendent has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been appointed, and he shall hold such certificate throughout the period of his employment. A superintendent candidate who is to begin his duties after June 30, 1994, shall successfully complete the training program and assessment center process within one (1) year of assuming his duties as superintendent. A superintendent shall not serve as director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit. Following appointment, the superintendent shall establish residency in Kentucky.

(3) A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education and upon approval by the chief state school officer. However, if the dismissal of the superintendent has been recommended by a Kentucky distinguished educator pursuant to KRS 158.6455 and the action is approved by the chief state school officer, the board shall terminate the superintendent's contract. Written notice setting out the charges for removal shall be spread on the minutes of the board and given to the superintendent. The board shall seek approval by the chief state school officer for removing the superintendent. The chief state school officer shall investigate the accuracy of the charges made, evaluate the superintendent's overall performance during his appointment, and consider the educational performance of the students in the district. Within thirty (30) days of notification, he shall either approve or reject the board's request.

Section 2. KRS 160.352 is amended to read as follows:

(1) For purposes of this section the term "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in a local school district.

(2) Each board of education shall appoint a superintendent of schools after receiving the recommendations of a screening committee. A screening committee shall be established within thirty (30) days of a determination by a board of education that a vacancy has occurred or will occur in the office of superintendent, except that when the board determines a vacancy will not occur before six (6) months from the date of determination, the board shall establish a screening committee at least ninety (90) days before the first date on which the position may be filled.

(3) A screening committee shall be composed of:

(a) Two (2) teachers, elected by the teachers in the district;

(b) One (1) board of education member, appointed by the board chairman;

(c) One (1) principal, elected by the principals in the district;

(d) One (1) parent, elected by the presidents of the parent-teacher organizations of the schools in the district;~~[and]~~

(e) ***One (1) classified employee, elected by the classified employees in the district; and***

(f) If a minority member is not elected or appointed to a screening committee in districts with a minority population of eight percent (8%) or more, as determined by the enrollment on the preceding October 1, the committee membership shall be increased to include one (1) minority parent. This minority parent member shall be elected by the parents in an election conducted by the local school board. Parents in the district shall be given adequate notice of the date, time, place, and purpose of the election.

(4) Prior to appointing a superintendent of schools, the board of education shall consider the recommendations of the screening committee ***and the board shall be required to appoint a superintendent from the committee's list of three (3) recommendations. If the board declines to appoint a candidate from the initial list of recommendations, the screening committee shall provide additional names until an appointment is made from the screening***~~[, but the board~~

~~shall not be required to appoint a superintendent from the~~]committee's recommendations.

HB 536, AN ACT relating to professional development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.095 is amended to read as follows:

(1) The Kentucky ***Department***[~~Board~~] of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator ***who shall provide technical assistance and coordination services to schools and personnel within the district***.

(a) The manner of appointment, qualifications, and ***specific*** duties of the professional development coordinator shall be[~~ as~~] established by Kentucky Board of Education ***through promulgation of administrative*** regulations.

(b)[~~(3)~~] The ***local district professional development coordinator shall participate in the*** Kentucky ***Department***[~~Board~~] of Education[~~ shall provide an~~] annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment ***and planning***; ***strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs***[~~; instruction in methods to involve both teachers and administrators in actively planning, delivering, and evaluating programs; presenting options for meeting professional development needs, especially through individualized programs; and identification of resources needed for quality, motivational professional development programs~~].

(3)[~~(4)~~] The Kentucky ***Department***[~~Board~~] of Education shall provide ***or facilitate optional,***[~~for a series of~~] state sponsored, professional development programs for certified personnel throughout the Commonwealth ***that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts***. Professional development ***programs*** shall ***include, but not be limited to,*** focus on the following areas[~~ during the 1990-91 and 1991-92 school years~~]:

(a) ***Curriculum content and methods of instruction for each content area***[~~The Kentucky Education Reform Act of 1990~~];

(b) School-based decision making;

(c) Performance-based student assessment;

(d) Nongraded primary programs;

(e) Research-based instructional practices;

(f) Instructional uses of technology;[~~ and~~]

(g) ***Curriculum design to serve the needs of students with diverse learning styles and skills and of***[~~Effective awareness and sensitivity training so teachers can motivate and nurture~~] students of diverse cultures***;***

(h) Instruction of phonics; and

(i) Educational leadership.

(4)[~~(5)~~] The department[~~ of Education~~] shall ***assist school personnel in assessing the impact of***[~~provide~~] professional development ***on their instructional practices and student learning***[~~activities at times and locations which are convenient for school personnel. During the 1990-91 and 1991-92 school years, school districts shall use the four (4) days designated for professional development in KRS 158.070 to acquire skills and knowledge in the areas listed in subsection (4) of this section. The master professional development plan shall reflect the districts' choices from the required areas for the 1990-91 and 1991-92 school years. A district's master professional development plan which has been developed in conjunction with the district improvement plan pursuant to KRS 158.685, shall be exempt from the requirements of this subsection~~].

(5)[~~(6)~~] ***The department shall assist districts with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.***

(a) Professional development strategies may include, but are not limited to, participation in teacher networks,

training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under Section 2 of this Act, the local district may coordinate the planning or delegate the use of the days to each school or school council, but priority shall be given to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. Up to one (1) day may be used to provide training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development may be used to support professional development initiatives that are consistent with local plans, throughout the year for all staff, including classified and certified staff and parents on school councils or committees.

(6) The Department of Education shall contract with an outside agency to complete an analysis of the current status of the statewide professional development program. The analysis shall include a comparison of models of professional development used in high-performing and award-winning schools. The analysis shall include specific recommendations regarding:

(a) The effective advancement of a supply and demand system for vendors and consumers of professional development; and

(b) The development and dissemination through the Internet and other appropriate means of consumer information concerning specific professional development opportunities.

A written report shall be provided to the Department of Education by October 30, 1998. The Department of Education shall publicly report its actions within six (6) months of the release of the recommendations and subsequently issue annual reports of the status of the statewide professional development program[~~Local school districts with an enrollment of twenty thousand (20,000) or more students shall be exempt from the requirements of this section if they meet the standards for professional development established by the Kentucky Board of Education~~].

Section 2. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for professional development and *collegial* planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. Each local board may use two (2) days for planning activities without the presence of pupils. Each local board may use the number of days deemed necessary for:

(a) National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

(b) Local disaster which would endanger the health or safety of children; and

(c) Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the chief state school officer.

(4) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(b) of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed

to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451.

(8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.~~[However, for the school years 1994-95 and 1995-96, local school districts may use up to five (5) instructional days or up to thirty (30) hours during instructional days for additional professional development for teachers if the following conditions are met:~~

~~(a) The local board determines the number of additional days or hours to be used for professional development and designates them in the school calendar; and~~

~~(b) A plan for the use of the additional days or hours is developed by each school and approved by the district superintendent. The plan shall consist of training selected from a list approved by the Kentucky Department of Education.]~~

Section 3. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
   a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
   b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based

on academic qualifications and attendance requirements, program evaluation, and supervision; and

9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning;

(d) Professional development plans developed pursuant to KRS 156.095~~[and 156.0951]~~;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development with the district's coordinator and other school councils. Small schools shall be encouraged to work with other school councils to maximize professional development

opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 4. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Human Resources Residential, Day Treatment, Clinical, and Group Home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Human Resources and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Human Resources, Department for Social Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children.

(b) Teachers and other staff shall be hired on contract through a local school district or if the local school district is not willing to participate, teachers shall be hired by the Kentucky Educational Cooperative for State Agency Children. All certified educational staff of the Kentucky Educational Cooperative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;

2. A per pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children~~[pursuant to KRS 156.0951]~~;

3. A per pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;

4. A per pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;

5. The funding for school services for state agency children authorized by KRS 158.135; and

6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (e) of this subsection for the education of Kentucky's children.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Human Resources shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:

a. Define the financial responsibility of each state and local agency for providing services to state agency children;

b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and

2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Human Resources.

(e) The commissioner of Juvenile Justice and the secretary of the Cabinet for Human Resources and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 5. The following KRS section is repealed:

156.0951 District consortia for professional development -- Withdrawal by school district.

The Committee Substitute to **HB 536** is as follows:

AN ACT relating to professional development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.095 is amended to read as follows:

(1) The Kentucky ***Department***[~~Board~~] of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator ***who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include planning and evaluation assistance or coordination activities***.

(a) The manner of appointment, qualifications, and ***other*** duties of the professional development coordinator shall be[~~ as~~] established by Kentucky Board of Education ***through promulgation of administrative*** regulations.

(b)[~~(3)~~] The ***local district professional development coordinator shall participate in the*** Kentucky ***Department***[~~Board~~] of Education[~~ shall provide an~~] annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment ***and planning***, ***strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information***[~~; instruction in methods to involve both teachers and administrators in actively planning, delivering, and evaluating programs; presenting options for meeting professional development needs, especially through individualized programs; and identification of resources needed for quality, motivational professional development programs~~].

(3)[~~(4)~~] The Kentucky ***Department***[~~Board~~] of Education shall provide ***or facilitate optional***[~~for a series of state sponsored~~], professional development programs for certified personnel throughout the Commonwealth ***that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to***

incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development *programs may include, but not be limited to,*[~~shall~~] focus on the following areas[~~ during the 1990-91 and 1991-92 school years~~]:

(a) *Curriculum content and methods of instruction for each content area*[~~The Kentucky Education Reform Act of 1990~~];

(b) School-based decision making;

(c) Performance-based student assessment;

(d) Nongraded primary programs;

(e) Research-based instructional practices;

(f) Instructional uses of technology;[~~ and~~]

(g) *Curriculum design to serve the needs of students with diverse learning styles and skills and of*[~~Effective awareness and sensitivity training so teachers can motivate and nurture~~] students of diverse cultures*;*

(h) Instruction of phonics; and

(i) Educational leadership.

(4)[~~(5)~~] *The department shall utilize its regional service centers, in addition to collaboration with postsecondary education institutions, education cooperative and consortia, and professional education organizations, to provide local district personnel with access to high quality programming.* The department[~~ of Education~~] shall *assist school personnel in assessing the impact of*[~~provide~~] professional development *on their instructional practices and student learning*[~~activities at times and locations which are convenient for school personnel. During the 1990-91 and 1991-92 school years, school districts shall use the four (4) days designated for professional development in KRS 158.070 to acquire skills and knowledge in the areas listed in subsection (4) of this section. The master professional development plan shall reflect the districts' choices from the required areas for the 1990-91 and 1991-92 school years. A district's master professional development plan which has been developed in conjunction with the district improvement plan pursuant to KRS 158.685, shall be exempt from the requirements of this subsection~~].

(5)[~~(6)~~] *The department shall assist districts with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.*

(a) Professional development strategies may include, but are not limited to, participation in teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under Section 2 of this Act, priority shall be given to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. Up to one (1) day may be used to provide training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development may be used to support professional development initiatives that are consistent with local plans, throughout the year for all staff, including classified and certified staff and parents on school councils or committees.

(6) The Department of Education shall contract with an outside agency to complete an analysis of the current status of the statewide professional development program. The analysis shall include a comparison of models of professional development used in high-performing and award-winning schools. The analysis shall include specific recommendations regarding:

(a) The effective advancement of a supply and demand system for vendors and consumers of professional development; and

(b) The development and dissemination through the Internet and other appropriate means of consumer information concerning specific professional development opportunities.

A written report shall be provided to the Department of Education by October 30, 1998. The Department of Education shall publicly report its actions within six (6) months of the release of the recommendations and subsequently issue annual reports of the status of the statewide professional development program[~~Local school districts with an enrollment of twenty thousand (20,000) or more students shall be exempt from the requirements of this section if they meet the standards for professional development established by the Kentucky Board of Education~~].

Section 2. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for professional development and ***collegial*** planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. Each local board may use two (2) days for planning activities without the presence of pupils. Each local board may use the number of days deemed necessary for:

(a) National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

(b) Local disaster which would endanger the health or safety of children; and

(c) Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the chief state school officer.

(4) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(b) of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451.

(8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.~~[However, for the school years 1994-95 and 1995-96, local school districts may use up to five (5) instructional days or up to thirty (30) hours during instructional days for additional professional development for teachers if the following conditions are met:~~

~~(a) The local board determines the number of additional days or hours to be used for professional development and designates them in the school calendar; and~~

~~(b) A plan for the use of the additional days or hours is developed by each school and approved by the district superintendent. The plan shall consist of training selected from a list approved by the Kentucky Department of Education.]~~

Section 3. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; and
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning;

(d) Professional development plans developed pursuant to KRS 156.095[~~ and 156.0951~~];

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level

requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development with the district's coordinator and other school councils. Small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 4. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or

the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Human Resources Residential, Day Treatment, Clinical, and Group Home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for Human Resources and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for Human Resources, Department for Social Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children.

(b) Teachers and other staff shall be hired on contract through a local school district or if the local school district is not willing to participate, teachers shall be hired by the Kentucky Educational Cooperative for State Agency Children. All certified educational staff of the Kentucky Educational Cooperative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;
2. A per pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children[~~ pursuant to KRS 156.0951~~];
3. A per pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;
4. A per pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;
5. The funding for school services for state agency children authorized by KRS 158.135; and
6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (e) of this subsection for the education of Kentucky's children.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for Human Resources shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:
    a. Define the financial responsibility of each state and local agency for providing services to state agency children;
    b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Human Resources.

(e) The commissioner of Juvenile Justice and the secretary of the Cabinet for Human Resources and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 5. The following KRS section is repealed:

156.0951 District consortia for professional development -- Withdrawal by school district.

HB 616, AN ACT relating to secondary area vocational education and technology centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) A local board of education may petition to assume the management and control of a state-operated secondary

vocational education and technology center from the State Board for Adult and Technical Education. The state board shall approve a request from a local board of education to assume the management and control of a secondary area vocational education and technology center, providing the following conditions are met:

(a) The local board of education owns the building and the center serves only secondary students from the district requesting the transfer; and

(b) The local board of education agrees to continue the programs and retain the teachers, administrators, and all other certified and classified staff for one (1) complete school year following the initial transfer. In subsequent years, all decisions relating to the programs, curriculum, and staff shall be under the authority of the local board of education.

(2) The state board shall transfer the general funds that are appropriated to the Department for Technical Education for the center's operation to the local board of education. In addition, the local board shall receive one hundred percent (100%) of the Support for Excellence in Education Program funds from the Kentucky Department of Education that are generated from students enrolled in the center.

(3) The transfer of the management and control of a secondary area vocational education and technology center shall be considered a permanent transfer, and all equipment and supplies shall be transferred to the local district.

(4) All certified employees affected by a transfer to the local board of education shall be granted one (1) year limited contracts by the local board of education and shall be employed on the local district salary schedule. Classified employees shall be guaranteed employment equal to their present status for at least one (1) complete school term. Transferred employees shall be provided the benefits of comparable employees in the district and shall be subject to all rules and policies of the local board of education, including but not limited to disciplinary and personnel actions that are the same as those that may be exercised by the district for any other employee in the district during a contract period.

(a) The employees' state positions shall be abolished as of the effective date of transfer to the local board of education.

(b) The transferred employees who have accrued annual leave and compensatory time shall be paid a lump sum for the accrued time at the effective date of the transfer. The employee shall be granted credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3). Sick leave credit shall be awarded to classified employees based on the local board policy. Any excess sick leave that classified or certified employee has earned that the district will not accept in the transfer may be requested to be held in escrow by the appropriate state personnel system under KRS Chapter 18A or KRS Chapter 151B, and the sick leave balance shall be restored to the employee if the employee returns to a state government position.

(c) An employee who is to be transferred to a local board of education under provisions of this section but who chooses not to accept a one (1) year limited contract with the board shall be separated from the state system and the employee's position shall be abolished. Notwithstanding any other statute, the employee may apply for any state position for which the employee is qualified but shall not be granted priority over other applicants for a position because the employee's position was abolished due to a transfer of the vocational education and technology center. The employee who refuses a contract with the local board shall be provided a lump sum payment for accrued annual leave and compensatory time, and the employee's sick leave balance shall be placed in escrow by the appropriate state personnel system under KRS Chapter 18A or KRS Chapter 151B. The sick leave balance shall be restored to the employee if the employee returns to a state government position.

(5) A certified employee, other than the principal, who has earned continuing status in the state certified personnel system under KRS Chapter 151B may be granted tenure under the provisions of Section 3 of this Act. A principal may be granted tenure as a teacher under Section 3, but the provisions relating to demotion of the principal under KRS 161.765 shall apply.

Section 2. KRS 161.740 is amended to read as follows:

(1) Teachers eligible for continuing service status in any school district shall be those teachers who meet qualifications listed in this section:

(a) Hold a standard or college certificate as defined in KRS 161.720 or meet the certification standards for vocational education teachers established by the Education Professional Standards Board.

(b) When a currently employed teacher is reemployed by the superintendent after teaching four (4) consecutive years in the same district, or after teaching four (4) years which shall fall within a period not to exceed six (6) years in the same district, the year of present employment included, the superintendent shall issue a written continuing contract if the teacher assumes his duties, and the superintendent shall notify the board of the action taken. Each day served in the General Assembly by a board of education employee during a regular, extraordinary, or organizational session shall be included in the computation of a year as defined in KRS 161.720(2).

(c) When a teacher has attained continuing contract status in one *(1)* district and becomes employed in another district, the teacher shall retain that status. ***When a certified employee has attained continuing status as an employee in a certified position in the state personnel system under KRS Chapter 151B and becomes employed in a local school district, the employee shall be granted tenure.*** However, a district may require a one (1) year probationary period of service in that district before granting that status. For purposes of this subsection, the continuing contract of a teacher shall not be terminated when the teacher leaves employment, all provisions of KRS 161.720 to 161.810 to the contrary notwithstanding, and the continuing service contract shall be transferred to the next school district, under conditions set forth in this section, for a period of up to seven (7) months from the time employment in the first school district has terminated. Nothing contained herein shall be construed to give a teacher a right to reemployment in the first school district during the seven (7) month period following termination.

(d) Service credit toward a continuing contract shall begin only when a teacher is properly certified as defined in KRS 161.720(6) or, in the case of a vocational education teacher, when the required certification standards established by the Education Professional Standards Board have been met.

(2) Vocational education teachers fulfilling the requirements in subsection (1) of this section as of July 15, 1982, shall be eligible for continuing service status.

(3) Any teacher or superintendent who has been or may be hereafter inducted into the Armed Forces of this country, shall at the expiration of service be reemployed or reinstated in a comparable position as of the beginning of the next school year, provided application is made at least thirty (30) days before the opening of school, unless physically or mentally incapacitated according to medical notations on official discharge papers. Vacancies created by military leaves shall be filled by teachers or superintendents employed by the board of education under a limited contract of one (1) year or less.

The Committee Substitute to **HB 616** is as follows:

AN ACT relating to secondary area vocational education and technology centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) A local board of education may petition to assume the management and control of a state-operated secondary area vocational education and technology center from the State Board for Adult and Technical Education. The state board shall approve a request from a local board of education to assume the management and control of a secondary area vocational education and technology center, providing the following conditions are met:

(a) The local board of education owns the building;

(b) The local board of education agrees to continue the programs and retain the teachers, administrators, and all other certified and classified staff for one (1) complete school year following the initial transfer. In subsequent years, all decisions relating to the programs, curriculum, and staff shall be under the authority of the local board of education and based on the needs of students in the area formerly served by the state-operated area vocational education and technology center as determined by an established needs assessment; and

(c) The local board of education continues to provide programs and services to students from other school districts who are using the center at the time of the transfer and collaborates with the districts to meet local vocational curriculum needs.

(2) (a) During the biennium in which a school transfer is made under subsection (1) of this section, the Department for Technical Education shall annually transfer funds equal to the amount of state funds that would be used by the department to operate the school, including general funds directly appropriated to the department and funds transferred to the department from the KRS 157.360 funds designated for that purpose and administered by the Kentucky Department of Education under subsection (5) of Section 2 of this Act. The Department for Technical Education shall also provide an equitable amount of funds from any specific general fund appropriation targeted for secondary area vocational education and technology centers based on the biennial budget appropriations.

(b) In subsequent years, the Kentucky Department of Education shall request through the biennial budget process funds to supplement the cost of the administration and operation of the locally operated center.

(c) Funds transferred to the local district shall be used only to support the administration and operation of the area vocational education and technology center and may not be used for other purposes within the district. A reduction in the available programs and services shall result in a proportional reduction in supplemental funds to support the center.

(3) The transfer of the management and control of a secondary area vocational education and technology center shall be considered a permanent transfer, and all equipment and supplies shall be transferred to the local district.

(4) All certified employees affected by a transfer to the local board of education shall be granted at least one (1) year contracts by the local board of education and shall be employed on the local district salary schedule, except that no employee shall receive a salary less than that being paid to the employee by the Department for Technical Education at the time of transfer. Any employee whose salary upon transfer exceeds that which would be paid an employee in the same position by the local district shall be ineligible for any increase in salary until the time as the employee's placement on the salary schedule matches the experience and educational level required for district employees at that position on the schedule. Employees who are eligible for continuing status in the state employment system shall be granted tenure. Classified employees shall be guaranteed employment equal to their present status for at least one (1) complete school term. Transferred employees shall be provided the benefits of comparable employees in the district and shall be subject to all rules and policies of the local board of education, including but not limited to disciplinary and personnel actions that are the same as those that may be exercised by the district for any other employee in the district during a contract period.

(a) The employees' state positions shall be abolished as of the effective date of transfer to the local board of education.

(b) The transferred employees who have accrued annual leave and compensatory time shall be paid a lump sum for the accrued time at the effective date of the transfer. The employee shall be granted credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3).

(c) An employee who is to be transferred to a local board of education under provisions of this section but who chooses not to accept a contract with the board shall be separated from the state system and the employee's position shall be abolished. The employee may apply for any state position for which the employee is qualified but shall be granted preference over other applicants for a position for which the employee is qualified. The employee shall have the same protection for reemployment as those granted to career employees under the provisions of KRS 18A.130 and 18A.135. The employee who refuses a contract with the local board and does not request to be placed on the reemployment list shall be provided a lump sum payment for accrued annual leave and compensatory time, and the employee's sick leave balance shall be placed in escrow by the appropriate state personnel system under KRS Chapter 18A or KRS Chapter 151B. The sick leave balance shall be restored to the employee if the employee returns to a state government position.

(5) A certified employee, other than the principal, who has earned continuing status in the state certified personnel system under KRS Chapter 151B shall be granted tenure under the provisions of Section 3 of this Act, except that the employee shall not experience the one (1) year probationary period. A principal shall be granted tenure as a teacher under Section 3 of this Act. If the principal has completed three (3) years as an administrator in the state vocational technical system, the provisions relating to the demotion of a principal under KRS 161.765 shall apply.

Section 2. KRS 151B.025 is amended to read as follows:

(1) The Department for Technical Education is hereby created and shall be attached to the Cabinet for Workforce Development. The department shall consist of a commissioner and those administrative bodies and employees provided or appointed pursuant to law.

(2) The chief executive officer of the department shall be the commissioner of the Department for Technical Education. The appointment of the commissioner shall be made from a list of three (3) names submitted by the State Board for Adult and Technical Education to the secretary and the Governor. The commissioner shall be appointed by the secretary of the Cabinet for Workforce Development from the list with the approval of the Governor. The commissioner shall have general supervision and direction over all functions of the department and its employees, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be responsible for implementing policies adopted by the State Board for Adult and Technical Education. The commissioner may delegate authority to deputies who may then act on his behalf in performing the duties assigned in this subsection.

(3) The department shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area vocational education and technology centers. When appropriate, the department shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.

(4) The department shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under its jurisdiction.

(5) Secondary area vocational education and technology centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the Educational Professional Standards Board. In addition to direct appropriations, funds appropriated to support the cost of operating area vocational

education and technology centers shall be transferred annually from the ***KRS 157.360***[~~secondary~~] funds administered by the Kentucky Department of Education for that purpose. ***If the State Board for Adult and Technical Education approves the transfer of a state-operated center to the management and control of a local board of education under the provisions of Section 1 of this Act, the Department for Technical Education shall transfer the funds for its administration and operation, and all equipment and supplies of the center, to the local board.***

(6) The Department for Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Department for Technical Education.

(7) The Department for Technical Education shall be the education agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The department shall involve representatives from all eligible recipient categories in the development of such plans.

(8) The department shall be permitted to enter into memorandums of agreement with individuals on a year to year basis to fill positions in hard-to-find teaching specialties. Such agreements and compensation shall be approved by the State Board for Adult and Technical Education, but shall not be subject to the provisions of KRS Chapter 45A. All such agreements shall be filed with the secretary of the Finance and Administration Cabinet.

(9) The commissioner of the Department for Technical Education shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board for Adult and Technical Education, any bulletins, programs, outlines of courses, placards, and courses of study he deems useful in the promotion of the interests of technical and vocational education.

(10) The department shall prepare a biennial budget request and submit it for review by the State Board for Adult and Technical Education. The budget shall be forwarded to the secretary of the Cabinet for Workforce Development for review and modification.

Section 3. KRS 161.740 is amended to read as follows:

(1) Teachers eligible for continuing service status in any school district shall be those teachers who meet qualifications listed in this section:

(a) Hold a standard or college certificate as defined in KRS 161.720 or meet the certification standards for vocational education teachers established by the Education Professional Standards Board.

(b) When a currently employed teacher is reemployed by the superintendent after teaching four (4) consecutive years in the same district, or after teaching four (4) years which shall fall within a period not to exceed six (6) years in the same district, the year of present employment included, the superintendent shall issue a written continuing contract if the teacher assumes his duties, and the superintendent shall notify the board of the action taken. Each day served in the General Assembly by a board of education employee during a regular, extraordinary, or organizational session shall be included in the computation of a year as defined in KRS 161.720(2).

(c) When a teacher has attained continuing contract status in one ***(1)*** district and becomes employed in another district, the teacher shall retain that status. However, a district may require a one (1) year probationary period of service in that district before granting that status. ***When a certified employee has attained continuing status as an employee in a certified position in the state personnel system under KRS Chapter 151B and becomes employed in a local school district due to the abolishment of the employee's position when the local district assumed control of a secondary area vocational education and technology center, the employee shall be granted tenure without a probationary period.*** For purposes of this subsection, the continuing contract of a teacher shall not be terminated when the teacher leaves employment, all provisions of KRS 161.720 to 161.810 to the contrary notwithstanding, and the continuing service contract shall be transferred to the next school district, under conditions set forth in this section, for a period of up to seven (7) months from the time employment in the first school district has terminated. Nothing contained herein shall be construed to give a teacher a right to reemployment in the first school district during the seven (7) month period following termination.

(d) Service credit toward a continuing contract shall begin only when a teacher is properly certified as defined in KRS 161.720(6) or, in the case of a vocational education teacher, when the required certification standards established by the Education Professional Standards Board have been met.

(2) Vocational education teachers fulfilling the requirements in subsection (1) of this section as of July 15, 1982, shall be eligible for continuing service status.

(3) Any teacher or superintendent who has been or may be hereafter inducted into the Armed Forces of this country, shall at the expiration of service be reemployed or reinstated in a comparable position as of the beginning of the next school year, provided application is made at least thirty (30) days before the opening of school, unless physically or mentally incapacitated according to medical notations on official discharge papers. Vacancies created by military leaves shall be filled by teachers or superintendents employed by the board of education under a limited contract of one (1) year or less.

Section 4. The General Assembly recognizes that local boards of education that own and operate secondary area vocational education and technology centers provide a valuable service to students and incur costs beyond the average classroom expenditures due to the nature of the programs, including the high costs of equipment, supplies, and instructional materials and the low pupil-teacher ratios that are essential in specific areas of instruction. Whereas the General Assembly currently appropriates supplemental funds to be distributed by the Kentucky Department of Education to the following school districts: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Jefferson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, and Union County, the Kentucky Department of Education is directed to review the funding level for these districts and other districts that may wish to assume operation of their programs, and the formula that is used to distribute the funds, and to report to the Interim Joint Committee on Education by July 15, 1999, of changes that may be needed in the distribution process and funding levels to assure that equitable supplemental funding is available to assist districts that operate their own schools to assure high-quality programming. The department shall give consideration to providing weights within the Support for Excellence in Education Program as well as other methods of funding. The Kentucky Department of Education shall take into consideration funding for any school that may be transferred from the Kentucky Department for Technical Education to a local board.

Section 5. Whereas, local boards of education may wish to assume control and management of a state-operated secondary area vocational education and technology center for the 1998-1999 school year and the transfer needs to be planned carefully and systematically, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 616** is as follows:

By amending the title to read as follows: "AN ACT relating to secondary vocational education and technology centers and declaring an emergency."

HB 681, AN ACT relating to community colleges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.595 is amended to read as follows:

(1) The board of regents for the Kentucky Community and Technical College System shall designate each community college with a name that includes the words "Community College." The names of community colleges on May 30, 1997, shall be retained***, except that the Somerset Community College shall be known as Southern Kentucky Community College***.

(2) The board shall encourage and may accept donations of land or funds or both to be used in the acquisition, construction, or operation of community colleges. The board may commemorate donations from private persons or corporations with suitable memorials.

(3) The board may accept federal grants to be used in the acquisition, construction, or operation of community colleges.

HB 706, AN ACT relating to distinguished educators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.782 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate administrative regulations to set forth the criteria for the Kentucky Distinguished Educators Program which shall be implemented by July 1, 1991. The designation of "Kentucky Distinguished Educator" shall be given to the state's most outstanding and highly skilled certified educators who deserve recognition and are willing to fulfill the following purposes of the program:

  (a) Serving as teaching ambassadors to spread the message that teaching is an important and fulfilling profession;

  (b) Assisting the Department of Education with research projects and staff development efforts;

  (c) Accepting assignments in schools whose percentage of successful students declined as described in KRS 158.6455. The assignments shall require the educator to:

    1. Work in a school on a full-time or part-time basis for a designated period of time to assist the school staff with implementing its school improvement plan. The educator shall have the authority in a school in crisis as defined in KRS 158.6455(5) to make decisions previously made by the school staff;

    2. Help to increase the effectiveness of the staff, parents, the civic and business community, and government and private agencies in improving the school's performance; and

    3. Evaluate and make recommendations on the retention, dismissal, or transfer of certified staff in a "school

in crisis."

4. Complete an intensive training program, provided by the Department of Education and approved by the Kentucky Board of Education, prior to being assigned to assist a school's staff with implementing its school improvement plan. The training program shall include, but shall not be limited to instruction in the methods of personnel evaluation, school organization, school curriculum, and assessment.

(2) The Kentucky Distinguished Educators Program criteria shall include:

(a) A selection process which shall allow for self nomination, provide a broad spectrum of instructional positions, and generate statewide representation.

(b) Beginning with the 1992-93 school year, special recognition shall be given to five (5) Kentucky distinguished educators each year in the form of a one (1) year sabbatical leave to work with instructional personnel across the state and to serve as teaching ambassadors to the state at large.

(c) Each recipient shall receive a monetary award of two hundred fifty dollars ($250) when selected and shall also be paid in accordance with his current salary for other program requirements which arise pursuant to subsection (1) of this section. The Department of Education shall be responsible for all expenses incurred as a result of the Kentucky Distinguished Educators Program, except those expenses associated with the funding of the position of the person who replaces the Kentucky distinguished educator when he is assigned to an unsuccessful school or district.

(d) Kentucky distinguished educators assigned to an unsuccessful school shall receive a salary supplement of fifty percent (50%) of his annual salary for each year of service in that capacity. The state board shall determine if reimbursement for vehicle mileage shall be allowed. If his assigned school achieves the threshold level in the next biennial review, he shall receive his portion of the reward due to the entire staff calculated on his base salary regardless of decisions made by the school staff pursuant to KRS 158.6455(1)(g).

(e) The Kentucky distinguished educator shall be granted professional leave pursuant to KRS 161.770 though the time may exceed two (2) years if determined by the state board to be necessary. The Kentucky distinguished educator shall not lose any employee benefits as a result of his special assignment.

(f) A Kentucky distinguished educator shall not be assigned to a school or to a district assignment in the district in which he is employed. ***A distinguished educator from a school district in a county with a city of the first class or a county with an urban-county form of government may be assigned by the Department of Education to a school within that district, but may not be assigned a school to which he or she was assigned at any time during his or her employment with the district.***

HB 724, AN ACT relating to a school to careers system and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly that a School to Careers system be developed to serve as an umbrella for career related programs in the public schools, including School-to-Work, Tech Prep, and High School's That Work initiatives.

(2) The goals of the School to Careers system shall be to:

(a) Increase the math, science, communications, social studies, and technical skills of all students through the implementation of a more rigorous and relevant applied curriculum and instructional process;

(b) Increase the awareness of job and career availability in the future workforce and the skills required to obtain those positions;

(c) Increase the postsecondary education's entry and completion rates and reduce the percentage of students taking remedial courses;

(d) Decrease the high school dropout rate through a system of increased guidance and extra help focused on academics and career achievement;

(e) Make all students aware of employer expectations in order to be successful;

(f) Increase the daily attendance rate at all secondary schools; and

(g) Provide the educational experiences that will cause all students to meet the goals and capacities identified in KRS 158.645 and KRS 158.6451 for Kentucky students.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The School to Careers grant program shall be provided by the General Assembly to provide matching funds to school districts or consortia of school districts for the development and implementation of comprehensive plans that

include:

(a) A comprehensive career awareness and exploration program for all students in grades K-8 to include study of Kentucky's fourteen (14) career clusters;

(b) High level academic and vocational courses for all secondary students to replace a general track curriculum;

(c) A comprehensive career guidance program to assist all secondary students in developing individual graduation plans;

(d) Applied academic instructional models for all disciplines and integration of academics and vocational education curriculum;

(e) Implementation of industry skill standards within all relevant academic and vocational education programs;

(f) Planned instructional programs to meet the needs of students with disabilities and other special needs students;

(g) Opportunity for students to receive, in addition to a high school diploma, a Career Major Certificate upon completion of the high school graduation requirements, work-based learning experiences, specific course work, and a career culminating project;

(h) Opportunity for students to participate in structured workbased learning;

(i) Linkages with postsecondary institutions that create a smooth and seamless transition from secondary to postsecondary education;

(j) Professional development for faculty and staff focused on developing integrated and applied curriculum; and

(k) A School to Careers Partnership Council composed of representatives of employers, education agencies, parents, students, teachers, administrators, and community organizations.

(2) The Kentucky Board of Education shall promulgate administrative regulations that set forth the request for proposal process, the criteria for grant awards, the responsibilities of local districts and consortia seeking matching funds, the level of funding available, and criteria for evaluating the success of the programs.

(3) The Department of Education shall administer the funds and shall provide technical assistance to local districts and consortia in developing, implementing, and evaluating School to Careers programs.

(4) The commissioner of education shall establish a state advisory committee composed of business, industry, labor, education, and government with a minimum of fifty-one percent (51%) of its membership from the employment sector to advise the department in the School to Careers program. The members shall serve without compensation but may be reimbursed for necessary travel expenses.

(5) The grant funds may be used to enhance on-going efforts such as Tech Prep, School-to-Work, and High Schools that Work initiatives.

Section 3. KRS 151B.250 is amended to read as follows:

(1) It is the intent of the General Assembly to create and support a ***School to Careers***[~~school-to-work transition~~] system that involves business, labor, education, and government[~~ in developing school curriculum and workplace training~~] to prepare students for ***careers***[~~jobs~~] in an ever-changing economy.[~~ Agencies of state government shall participate in the development and implementation of the system.~~]

(2) ***It is the intent of the General Assembly that the***[~~There shall be an~~] Office of School-to-Work attached to the office of the secretary of the Workforce Development Cabinet[~~ to~~] coordinate ***its efforts with the Kentucky Department of Education in the implementation of this overall effort. As the School to Work effort is a federally supported program that fits within the overall mission of the School to Careers system, it is critical that collaboration and coordination occur.***[~~the school-to-work transition system. The system shall foster community partnerships to provide education and skill development that ensure all individuals can successfully compete in the workforce. It shall include~~] The following elements ***shall be coordinated when possible***:

(a) [~~Community ownership by setting a vision through ~~]Planning and partner involvement of business, labor, education, government, community-based organizations, employers, parents, and students;

(b) Career awareness, exploration, preparation, and guidance incorporated in the school curriculum;

(c) A comprehensive system approach from the primary through postsecondary levels with all students having the opportunity to participate;

(d) Applied learning experiences;

(e) Integration of academic and occupational education;

(f) Performance assessment;

(g) Actual or simulated learning at the school or the worksite;

(h) Curriculum based on skill standards representing all aspects of an industry;

(i) Secondary to postsecondary articulation;

(j) Postsecondary articulation; and

(k) Professional development opportunities for all partners.

(3) The executive director of the Office of School-to-Work shall be appointed by the secretary of the Workforce Development Cabinet pursuant to KRS 12.050.

(4) The Office of School-to-Work may promulgate administrative regulations establishing policy for the development and implementation of a school-to-work transition system.

(5) The Office of School-to-Work shall comply with the provisions of the federal School-to-Work Opportunities Act, Pub.L. 103-239 as it is amended from time to time.

Section 4. KRS 151B.255 is amended to read as follows:

The Office of School-to-Work ***in cooperation with the Kentucky Department of Education*** shall convene representatives of business, labor, education, and government to:

(1) Develop school curriculum and resource materials to assist educators, employers, and students with career planning and workplace training. The curriculum and materials shall define career-related courses that are necessary for each career cluster that may ultimately lead to a career major. The curriculum shall outline the academic and technical courses that are necessary for each career major;

(2) Advise the Office of School-to-Work on the design of model projects geographically placed across the state to test the curriculum for each career cluster. Each project shall include local representatives of business, labor, education, and government to advise on the specific skills and knowledge necessary to be a successful employee in the specific career; and

(3) Evaluate and disseminate the findings of each model project to all other school-to-work labor market areas.

Section 5. Whereas, it is important that local districts be able to request grant funds during the 1998-99 school year and administrative regulations must be promulgated by the Kentucky Board of Education regarding the request for proposals, time is critical and an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming the law.

HB 779, AN ACT relating to the Kentucky Board of Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.040 is amended to read as follows:

[~~(1)~~]The members of the Kentucky Board of Education shall have the same qualifications as school board members, except that members shall be at least thirty (30) years of age ***and shall have at least an associate degree or its equivalent***. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

[~~(2) The members of the Kentucky Board of Education shall have the same qualifications as local board members pursuant to KRS 160.180, except the members of the Kentucky Board of Education shall be at least thirty (30) years of age and shall have a bachelor's degree from an accredited college or university.~~]

HB 782, AN ACT relating to education funding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.478 is amended to read as follows:

(1) It is the intent of the General Assembly to increase the educational level of deaf and hard of hearing persons by assuring them an equal opportunity to obtain an education in the public ***postsecondary*** institutions[~~ of higher education~~].

(2) The public ***postsecondary*** institutions[~~ of higher education~~] shall make their programs accessible to deaf and hard of hearing students by providing support services necessary for such students to fully participate in the programs. The support services shall include, but not be limited to, interpreters and notetakers in the classroom, and equal access to all support services available to those who are not deaf or hard of hearing. Appropriate assistive listening devices and alerting devices shall be available in dormitories housing deaf or hard of hearing students.

(3) (a) The General Assembly shall appropriate funds to the Department of Vocational Rehabilitation excluding costs of capital equipment or modifications for installation of assistive listening or alerting devices to cover the costs of support services at the institutions for students who are deaf or hard of hearing.

(b) The Department of Vocational Rehabilitation shall administer funding of support services at institutions for students who are deaf or hard of hearing contingent on General Assembly funding. The institutions of higher education and the Department of Vocational Rehabilitation shall cooperate to assure that funds are used to effectively provide support services to students who are deaf and hard of hearing.

(c) The funds shall be distributed to institutions based upon actual costs or established fees for service of providing support services to individual students.

The Committee Substitute to **HB 782** is as follows:

AN ACT relating to education funding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.478 is amended to read as follows:

(1) It is the intent of the General Assembly to increase the educational level of deaf and hard of hearing persons by assuring them an equal opportunity to obtain an education in the public ***postsecondary*** institutions[~~ of higher education~~].

(2) The public ***postsecondary*** institutions[~~ of higher education~~] shall make their programs accessible to deaf and hard of hearing students by providing support services necessary for such students to fully participate in the programs. The support services shall include, but not be limited to, interpreters and notetakers in the classroom, and equal access to all support services available to those who are not deaf or hard of hearing. Appropriate assistive listening devices and alerting devices shall be available in dormitories housing deaf or hard of hearing students.

(3) (a) The General Assembly shall appropriate funds to the Department of Vocational Rehabilitation excluding costs of capital equipment or modifications for installation of assistive listening or alerting devices to cover the costs of support services at the institutions for students who are deaf or hard of hearing.

(b) The Department of Vocational Rehabilitation shall administer funding of support services at institutions for students who are deaf or hard of hearing contingent on General Assembly funding. The ***postsecondary*** institutions[~~ of higher education~~] and the Department of Vocational Rehabilitation shall cooperate to assure that funds are used to effectively provide support services to students who are deaf and hard of hearing.

(c) The funds shall be distributed to institutions based upon actual costs or established fees for service of providing support services to individual students.

The Committee Amendment No. 1 Title to **HB 782** is as follows:

By amending the title to read as follows:

"AN ACT relating to deaf and hard of hearing students."

HB 805, AN ACT relating to school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.010 is amended to read as follows:

(1) Except as provided in KRS 159.030, each parent, guardian, or other person residing in the state and having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session, or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his sixth birthday and has not passed his sixteenth birthday.

(2) An unmarried child between the ages of sixteen (16) and eighteen (18) who wishes to terminate his public or nonpublic education prior to graduating from high school shall do so only after a conference with the principal or his designee, and the principal shall request a conference with the parent, guardian, or other custodian. Written notification of withdrawal must be received from his parent, guardian, or other person residing in the state and having custody or charge of him[~~ sixty (60) days prior to withdrawal~~]. The written notification shall be dated and the signature witnessed by the principal of the school or his designee, where the child is in attendance.[~~ During the sixty (60) day period, the parent(s) and child shall be required to attend a one (1) hour counseling session where they shall view a media presentation prepared by the Department of Education which shows economic statistics and other information on potential problems of nongraduates.~~]

(3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.

[~~(4) The commissioner of education shall make a recommendation to the 1992 Regular Session of the General Assembly on raising the compulsory school age to eighteen (18) years of age for students who have not earned a diploma.~~]

Section 2. KRS 159.150 is amended to read as follows:

Any child who has been absent from school without valid excuse for three (3) or more days, or tardy ***without valid excuse*** on three (3) or more days, is a truant. Any child who has been reported as a truant three (3) or more times is an habitual truant. Being absent for less than half of a school day shall be regarded as being tardy. ***A local board of education may adopt reasonable policies that require students to comply with compulsory attendance laws, that require truants and habitual truants to make up unexcused absences, and that impose sanctions for noncompliance.***

HB 815, AN ACT relating to the State Advisory Council for Gifted and Talented Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The State Advisory Council for Gifted and Talented Education is hereby created and attached to the Kentucky Department of Education. The council's purpose is to make recommendations regarding the provisions of services for gifted and talented students in Kentucky's education system.

(a) The council shall be composed of nineteen (19) voting members who shall be appointed by the Governor and three (3) non-voting, ex officio members. The members shall be appointed representing various constituencies as follows:

1. Four (4) members shall be teachers within local school districts representing elementary, middle, and high school levels with at least one (1) full-time teacher of gifted and talented students and one (1) full-time teacher who teaches in a regular classroom;

2. Four (4) members shall be parents of students in local school districts, including two (2) parents of students identified as gifted and talented and at least one (1) who serves or has served on a school council;

3. Three (3) members shall be from postsecondary education institutions, including one (1) from an independent college or university;

4. One (1) member shall be a superintendent of a local school district;

5. Two (2) members shall be principals, including one (1) from an elementary or middle school and one (1) from a high school;

6. Two (2) members shall be coordinators of gifted and talented programs and services in local school districts;

7. One (1) member shall be a local board of education member ;

8. One (1) member shall represent the visual and performing arts; and

9. One (1) member shall be appointed from the private business sector.

(b) The three (3) non-voting ex officio members shall be: the state consultant for gifted and talented education in the Kentucky Department of Education, a staff person designated by the executive secretary of the Education Professional Standards Board, and a staff person designated by the president of the Council on Postsecondary Education. Vacancies shall be filled by the Governor as they occur in a manner consistent with the provisions for initial appointment.

(2) The council shall advise the commissioner of education, the Kentucky Board of Education, and the Education Professional Standards Board concerning the development of administrative regulations and education policy regarding gifted and talented students. The commissioner of education and the executive secretary for the Education Professional Standards Board shall submit proposed administrative regulations and educational policies relating to gifted and talented education and other administrative regulations that impact gifted and talented students for review by the advisory council prior to seeking approval of the appropriate board.

(3) As the advisory council considers issues relating to gifted and talented students, it shall seek dialogue with other agencies and organizations, including the Parent Teachers Association, the Governor's Scholars Program, the Governor's School for the Arts, the Kentucky Association of School Councils, the Kentucky Association for Gifted Education, the Kentucky School Boards Association, the Kentucky Association of School Administrators, and the Kentucky Council for Exceptional Children.

(4) The advisory council shall annually elect a chair from its membership, establish meeting operational procedures, and meet at least two (2) times annually.

(5) The Department of Education shall provide staff and administrative support and shall administer the funds

appropriated to support the expenses of the council.

(6) The members of the advisory council shall serve without compensation, but shall be reimbursed for necessary expenses in the same manner as state employees.

HB 859, AN ACT relating to school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.180 is amended to read as follows:

(1) Each ***employee***~~[teacher and administrator]~~ in the public schools shall in accordance with the rules, regulations, and bylaws of the board of education made and adopted pursuant to KRS 160.290 for the conduct of pupils, hold pupils to a strict account for their conduct on school premises, on the way to and from school, and on school sponsored trips and activities.

(2) The various boards of education of the Commonwealth of Kentucky, and the principals of the public schools, may use teacher's aides in supervisory capacities, such as playground supervision, hallway supervision, lunchroom and cafeteria supervision, and other like duties, including, but not limited to, recreational activities and athletic events, relating to the supervision and control of the conduct of the pupils; and while so engaged, such teacher's aides shall have the same authority and responsibility as is granted to and imposed by law upon teachers in the performance of the same or similar duties.

(3) Boards of education may employ a nonfaculty coach or nonfaculty assistant, as defined by administrative regulation promulgated by the Kentucky Board of Education under KRS 156.070(2), to supervise athletic practice sessions. A nonfaculty coach or nonfaculty assistant shall be at least twenty-one (21) years of age, shall not be a violent offender or have been convicted of a sex crime as defined by KRS 17.165 that is classified as a felony, and shall submit to a criminal record check under KRS 160.380.

(4) Prior to assuming his or her duties, a nonfaculty coach or nonfaculty assistant shall successfully complete training provided by the local school district. The training shall include, but not be limited to, information on the physical and emotional development of students of the age with whom the nonfaculty coach and nonfaculty assistant will be working, the district's and school's discipline policies, procedures for dealing with discipline problems, and safety and first aid training. Follow-up training shall be provided annually.

Section 2. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky

Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.

(e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is an employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office and who is certified for the position he holds, and it shall not apply to a superintendent's spouse who has at least twenty (20) years of service in school systems. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote his relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year. No spouse of a principal shall be employed in the principal's school, except a principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor. Each superintendent shall request all conviction information for any applicant for initial employment from the Justice Cabinet prior to employing the applicant.

(4) (a) If a school term has begun and a position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the required records. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of records documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the district of a record documenting a criminal act as defined above and no further procedures shall be required.

(5) Each application or renewal form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(6) Any request for records under subsection (3) of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(7) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988. Initial employment shall include first time applicants and applicants who were former employees of the district but have not been employed by the district for six (6) months.

(8) Subsections (4), (5), (6), and (7) of this section shall apply to a nonfaculty coach or nonfaculty assistant employed under Section 1 of this Act.

The Committee Substitute to **HB 859** is as follows:

AN ACT relating to school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.180 is amended to read as follows:

(1) Each ***employee***~~[teacher and administrator]~~ in the public schools shall in accordance with the rules, regulations, and bylaws of the board of education made and adopted pursuant to KRS 160.290 for the conduct of pupils, hold pupils to a strict account for their conduct on school premises, on the way to and from school, and on school sponsored trips and activities.

(2) The various boards of education of the Commonwealth of Kentucky, and the principals of the public schools, may use teacher's aides in supervisory capacities, such as playground supervision, hallway supervision, lunchroom and cafeteria supervision, and other like duties, including, but not limited to, recreational activities and athletic events, relating to the supervision and control of the conduct of the pupils; and while so engaged, such teacher's aides shall have the same authority and responsibility as is granted to and imposed by law upon teachers in the performance of the same or similar duties.

(3) Boards of education may employ a nonfaculty coach or nonfaculty assistant, as defined by administrative regulation promulgated by the Kentucky Board of Education under KRS 156.070(2), to supervise athletic practice sessions for students in grades below the ninth grade. A nonfaculty coach or nonfaculty assistant shall be at least twenty-one (21) years of age, shall not be a violent offender or have been convicted of a sex crime as defined by KRS 17.165 that is classified as a felony, and shall submit to a criminal record check under KRS 160.380.

(4) Prior to assuming his or her duties, a nonfaculty coach or nonfaculty assistant shall successfully complete training provided by the local school district. The training shall include, but not be limited to, information on the physical and emotional development of students of the age with whom the nonfaculty coach and nonfaculty assistant will be working, the district's and school's discipline policies, procedures for dealing with discipline problems, and safety and first aid training. Follow-up training shall be provided annually.

Section 2. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.

(e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is an employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office and who is certified for the position he holds, and it shall not apply to a superintendent's spouse who has at least twenty (20) years of service in school systems. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote his relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year. No spouse of a principal shall be employed in the principal's school, except a principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor. Each superintendent shall request all conviction information for any applicant for initial employment from the Justice Cabinet prior to employing the applicant.

(4) (a) If a school term has begun and a position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the required records. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of records documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the district of a record documenting a criminal act as defined above and no further procedures shall be required.

(5) Each application or renewal form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(6) Any request for records under subsection (3) of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(7) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988. Initial employment shall include first time applicants and applicants who were former employees of the district but have not been employed by the district for six (6) months.

(8) Subsections (4), (5), (6), and (7) of this section shall apply to a nonfaculty coach or nonfaculty assistant employed under Section 1 of this Act.

HB 900, AN ACT relating to students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.010 is amended to read as follows:

(1) Except as provided in KRS 159.030, each parent, guardian, or other person residing in the state and having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session, or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his sixth birthday and has not passed his sixteenth birthday.

(2) An unmarried child between the ages of sixteen (16) and eighteen (18) who wishes to terminate his public or nonpublic education prior to graduating from high school shall do so only after a conference with the principal or his designee, and the principal shall request a conference with the parent, guardian, or other custodian. Written notification of withdrawal must be received from his parent, guardian, or other person residing in the state and having custody or charge of him[~~sixty (60) days prior to withdrawal. The written notification shall be dated and the signature witnessed by the principal of the school or his designee, where the child is in attendance. During the sixty (60) day period, the parent(s) and child shall be required to attend a one (1) hour counseling session where they shall view a media presentation prepared by the Department of Education which shows economic statistics and other information on potential problems of nongraduates~~].

(3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.

~~[(4) The commissioner of education shall make a recommendation to the 1992 Regular Session of the General Assembly on raising the compulsory school age to eighteen (18) years of age for students who have not earned a diploma.]~~

Section 2. KRS 159.051 is amended to read as follows:

(1) When a student age sixteen (16) or seventeen (17) drops out of school or is declared to be academically deficient, the school administrator or his designee shall notify the superintendent of schools of the district in which the student is a resident or is enrolled. The reports shall be made at the end of each semester but may be made earlier in the semester for accumulated absences. A student shall be deemed to have dropped out of school when he has nine (9) or more unexcused absences in the preceding semester. Any absences due to suspension shall be unexcused absences. A student shall be deemed to be academically deficient when he has not received passing grades in at least four (4) courses, or the equivalent of four (4) courses, in the preceding semester. The local school board shall adopt a policy to reflect a similar standard for academic deficiency for students in alternative, special education, or part-time programs.

(2) Within ten (10) days after receiving the notification, the superintendent shall report the student's name and Social Security number to the Transportation Cabinet. As soon as possible thereafter, the cabinet shall notify the student that his operator's license, permit, or privilege to operate a motor vehicle has been revoked or denied and shall inform the student of his right to a hearing before the District Court of appropriate venue to show cause as to the reasons his driver's license should be reinstated. Within fifteen (15) days after this notice is sent, the custodial parent, legal guardian, or next friend of the student may request an ex parte hearing before the District Court. The student shall not be charged District Court filing fees. The notification shall inform the student that he is not required to have legal counsel. Revocation under this subsection shall not be permitted unless the local school district shall operate an alternative education program approved by the Department of Education designed to meet the learning needs of students who are unable to succeed in the regular program.

(3) In order for the student to have his license reinstated, the court shall be satisfied that the license is needed to meet family obligations or family economic considerations which if unsatisfied would create an undue hardship or that the student is the only licensed driver in the household or the student is not considered a dropout or academically deficient pursuant to this section. If the student satisfies the court, the court shall notify the cabinet to reinstate the student's license at no cost. The student, if aggrieved by a decision of the court issued pursuant to this section, may appeal the decision within thirty (30) days to the Circuit Court of appropriate venue. A student who is being schooled at home shall be considered to be enrolled in school.

(4) ***(a)*** A student who has had his license revoked under the provisions of this section may reapply for his driver's license as early as the end of the semester during which he enrolls in school and successfully completes the educational requirements ***as documented by school transcripts. A student who was academically deficient, dropped out of school, and enrolled in a home school, and who applies for reinstatement of a driver's license must provide documentation to the public school from which he dropped out that the academic deficiencies have been corrected by scoring at or above grade level on a nationally standardized, norm-referenced test administered by the school district or by successful completion of the General Educational Development (GED) diploma***.

(b) A student may also reapply for his driver's license at the end of a summer school semester which results in the student having passed at least four (4) courses, or the equivalent of four (4) courses, during the successive spring and summer semesters, and the courses meet the educational requirements for graduation. He shall provide proof issued by his school within the preceding sixty (60) days that he is enrolled and is not academically deficient.

The Committee Substitute to **HB 900** is as follows:

AN ACT relating to students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.010 is amended to read as follows:

(1) Except as provided in KRS 159.030, each parent, guardian, or other person residing in the state and having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session, or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his sixth birthday and has not passed his sixteenth birthday.

(2) An unmarried child between the ages of sixteen (16) and eighteen (18) who wishes to terminate his public or nonpublic education prior to graduating from high school shall do so only after a conference with the principal or his designee, and the principal shall request a conference with the parent, guardian, or other custodian. Written notification of withdrawal must be received from his parent, guardian, or other person residing in the state and having custody or charge of him***.***~~[sixty (60) days prior to withdrawal. The written notification shall be dated and the signature witnessed by the principal of the school or his designee, where the child is in attendance. During the sixty (60) day period,]~~ The parent(s) and child

shall be required to attend a one (1) hour counseling session ***with a school counselor***[~~where they shall view a media presentation prepared by the Department of Education which shows economic statistics and other information~~] on potential problems of nongraduates.

(3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.

[~~(4) The commissioner of education shall make a recommendation to the 1992 Regular Session of the General Assembly on raising the compulsory school age to eighteen (18) years of age for students who have not earned a diploma.~~]

HB 920, AN ACT relating to school property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The local school board shall sell or otherwise dispose of all real or personal property of the district that is not needed or has become unsuitable for district use as determined by the board. The determination of the board shall be set forth in its minutes, and the minutes shall describe the property and state the reasons why the board believes disposal should be effected.

(2) Real property proposed for disposal shall be surplus to the need of the educational program of the district as determined by the approved facility plan. Request for approval to dispose of the property shall be submitted in writing with a copy of the board minutes declaring the property surplus to the commissioner of education. Disposal may be implemented upon approval.

(3) The board shall set the price of the property based on the fair market value as determined by a certified appraiser. The board shall advertise the property under KRS 424.130(c). Disposition of real and personal property shall be made by one (1) of the following two (2) methods:

(a) By public auction; or

(b) By accepting sealed bids.

(4) No business or individual shall bid on real property under this section if a school board member, a school board employee or a relative of a school board member or school board employee has at least five percent (5%) interest or an investment of at least ten thousand dollars ($10,000) in the business. For purposes of this subsection, "relative" has the meaning given to "family member" in KRS 6.611.

(5) The school board shall hold a public hearing before the sale of real property to determine the intended use of that property.

(6) The board's attorney shall certify that the statutes have been met relative to approval to dispose of the property, advertisement, sale, and price prior to the board consummating the sale with the buyer. All instruments required by law to be recorded that convey any interest in any real property so disposed of shall be executed and signed by the chairman of the board.

Section 2. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools, subject to the following conditions:

1. a. Procedures for developing an ungraded primary program as defined in KRS 158.030 which shall be implemented by the beginning of the 1992-93 school year, and the program, in its entirety, shall be fully implemented for all students who have not entered the fourth grade in every elementary school in every district by the beginning of the 1993-1994 school year, except as provided in subparagraph 1.b. of this paragraph. The primary program shall include the following critical attributes: developmentally appropriate educational practices, multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement. The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time and will allow for grouping of students attending their first year of school when determined to be developmentally appropriate.

b. A school council established pursuant to KRS 160.345 or if none exists, a school may determine, based on individual student needs, that implementing multiage and multiability classrooms need not apply for every grouping of students for every activity throughout the entire day. The school council or school shall revise the action plan to reflect any changes in the primary program's design.

2. The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation. Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements in light of the expected outcomes for students and schools set forth in KRS 158.6451;

(d) Taking, and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education ***under Section 1 of this Act***.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;

2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or

3. There is a finding of good cause for the waiver.

(b) Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools shall not be subject to waiver.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards

established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 3. KRS 160.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 160.250 shall be fined not more than two hundred dollars ($200).

(2) Any person who violates any of the provisions of KRS 160.300 shall be fined not less than ten ($10) nor more than fifty dollars ($50).

(3) Any superintendent who violates any of the provisions of KRS 160.350 to 160.400 shall be fined not less than one hundred ($100) nor more than one thousand dollars ($1,000) for each offense, and the violation is grounds for revocation of his certificate.

(4) Any person who violates any of the provisions of KRS 160.550 shall be fined not less than fifty ($50) nor more than one hundred dollars ($100), and shall be subject to removal from office.

(5) The Kentucky Board of Education may withhold funds allotted under KRS 157.350 from any local district which violates subsection (3) of KRS 160.380 in the amount of one thousand dollars ($1,000) per violation.

(6) In addition to penalties listed in this section, any local district which violates subsection (3) of KRS 160.380 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(7) Any business or individual that violates the provisions of subsection (4) of Section 1 of this Act shall be guilty of a Class A misdemeanor.

The Committee Substitute to **HB 920** is as follows:

AN ACT relating to school property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) The local school board shall sell or otherwise dispose of all real or personal property of the district that is not needed or has become unsuitable for district use as determined by the board. The determination of the board shall be set forth in its minutes, and the minutes shall describe the property and state the reasons why the board believes disposal should be effected.

(2) Real property proposed for disposal shall be surplus to the need of the educational program of the district as determined by the approved facility plan. Request for approval to dispose of the property shall be submitted in writing with a copy of the board minutes declaring the property surplus to the commissioner of education. Disposal may be implemented upon approval.

(3) The board shall set the price of the property based on the fair market value as determined by a certified appraiser. The board shall advertise the property under KRS 424.130(c). Disposition of real and personal property shall be made by one (1) of the following two (2) methods:

(a) By public auction; or

(b) By accepting sealed bids.

(4) No business shall bid on real property under this section if a school board member, a school board employee or a relative of a school board member or school board employee has at least five percent (5%) interest or an investment of at least ten thousand dollars ($10,000) in the business. No school board member, school board employee, or relative of a school board member or school board employee shall bid on real property under this section. For purposes of this subsection, "relative" has the meaning given to "family member" in KRS 6.611.

(5) The school board shall hold a public hearing before the sale of real property to determine the intended use of that property.

(6) The board's attorney shall certify that the statutes have been met relative to approval to dispose of the property, advertisement, sale, and price prior to the board consummating the sale with the buyer. All instruments required by law to be recorded that convey any interest in any real property so disposed of shall be executed and signed by the chairman of the board.

Section 2. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools, subject to the following conditions:

1. a. Procedures for developing an ungraded primary program as defined in KRS 158.030 which shall

be implemented by the beginning of the 1992-93 school year, and the program, in its entirety, shall be fully implemented for all students who have not entered the fourth grade in every elementary school in every district by the beginning of the 1993-1994 school year, except as provided in subparagraph 1.b. of this paragraph. The primary program shall include the following critical attributes: developmentally appropriate educational practices, multiage and multiability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement. The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time and will allow for grouping of students attending their first year of school when determined to be developmentally appropriate.

b. A school council established pursuant to KRS 160.345 or if none exists, a school may determine, based on individual student needs, that implementing multiage and multiability classrooms need not apply for every grouping of students for every activity throughout the entire day. The school council or school shall revise the action plan to reflect any changes in the primary program's design.

2. The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation. Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements in light of the expected outcomes for students and schools set forth in KRS 158.6451;

(d) Taking, and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education ***under Section 1 of this Act***.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;

2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or

3. There is a finding of good cause for the waiver.

(b) Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools shall not be subject to waiver.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 3. KRS 160.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 160.250 shall be fined not more than two hundred dollars ($200).

(2) Any person who violates any of the provisions of KRS 160.300 shall be fined not less than ten ($10) nor more than fifty dollars ($50).

(3) Any superintendent who violates any of the provisions of KRS 160.350 to 160.400 shall be fined not less than one hundred ($100) nor more than one thousand dollars ($1,000) for each offense, and the violation is grounds for revocation of his certificate.

(4) Any person who violates any of the provisions of KRS 160.550 shall be fined not less than fifty ($50) nor more than one hundred dollars ($100), and shall be subject to removal from office.

(5) The Kentucky Board of Education may withhold funds allotted under KRS 157.350 from any local district which violates subsection (3) of KRS 160.380 in the amount of one thousand dollars ($1,000) per violation.

(6) In addition to penalties listed in this section, any local district which violates subsection (3) of KRS 160.380 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(7) Any business or individual that violates the provisions of subsection (4) of Section 1 of this Act shall be guilty of a Class A misdemeanor..

Motions, Petitions and Communications (Continued)

Representative Hoover moved the adoption of the following **Legislative Citation No. 147**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Somerset High School Girls Basketball Team upon winning the 12th Region Girls Basketball Championship on March 7, 1998, by defeating Boyle County with a score of 58-49. Whereas, this outstanding team, under the leadership of Head Coach Judy Mason, exhibited hard work, persistent dedication and exceptional team spirit to achieve this remarkable accomplishment, and whereas, this achievement and many others have continued the winning tradition of the Somerset High School Lady Briar Jumpers; therefore, the members of this distinguished body are pleased to join Representative Jeffrey Hoover in paying tribute to this outstanding team and in extending best wishes for continued monuments of athletic success. **Legislative Citation No. 147** was adopted without objection.

Representative Brandstetter moved the adoption of the following **Legislative Citation No. 144**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor of Elaine Brandstetter upon the auspicious occasion of her birthday. In celebration of this memorable event the entire membership joins with her loving son, Representative Larry Brandstetter, in commending Elaine Brandstetter for a life lived to the fullest and for the vitality of heart which has brought her thus far. This distinguished body hereby recognizes Elaine Brandstetter on this meaningful occasion, and extends to her best wishes for the hope of many fruitful years to come. **Legislative Citation No. 144** was adopted without objection.

Representative Miller moved the adoption of the following **Legislative Citation No. 145**. Agreed.

Citation of Adjournment It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Roxie Denkhoff cherished daughter of Dallas and Pat Denkhoff and devoted mother of two lovely daughters, Stephanie and April. A former honor student at Pleasure Ridge Park High School in Louisville, Kentucky, this dearly loved and exceptional lady will long be remembered for the kindness and generosity of spirit that she offered to all those whose fortune it was to know her. The members of this august body are honored to join with Representative Charles Miller in extending heartfelt sentiments of sympathy and solace to the family and children of Roxie Denkhoff and do hereby adjourn this legislative day in her memory. **Legislative Citation No. 145** was adopted without objection.

Representative Bowling moved the adoption of the following **Legislative Citation No. 143**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Bob Simon, Bennie Hall & Stacy Hockensmith for outstanding performance and impressive accomplishment as support staff to Representative Jim Callahan. Inasmuch as the Kentucky House of Representatives renders enormous tasks during the legislative session, these distinguished employees are indeed an integral element of exemplary support. Now, let it be known that the members of this honorable body join Representative Mike Bowling in paying tribute to the exceptional dedication, the absolute professional courtesy and the reliable work ethic of these most valued employees, and extend deepest appreciation and gratitude for their phenomenal contributions to keeping the legislative process running with great efficiency. **Legislative Citation No. 143** was adopted without objection.

Representative Alexander moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Alexander moved that he be recorded as voting "yea" on **HB 699, HB 776, HB 668, HB 854, HB 754, HB 775, HB 740, HB 736, HB 692, HB 689, HB 552, HB 529, HB 703, HB 617,** and **HB 544**. Agreed.

Representative Pope moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Pope moved that he be recorded as voting "yea" on **HB 776, HB 668, HB 854, HB 754, HB 775, HB 740, HB 736, HB 692, HB 689, HB 552, HB 529, HB 703, HB 617, HB 544, HB 449, HB 444, HB 249, HB 217, HB 60, HB 742, HB 739, HB 725, HB 722, HB 684, HB 783, HB 648,** and **HB 527**. Agreed.

Representative Polston moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Polston moved that his vote be changed from "nay" to "yea" on **HB 728** and **HB 757**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Barrows moved that he be recorded as voting "yea" on **HB 85**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crall moved that he be recorded as voting "yea" on **HB 757**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Johns moved that she be recorded as voting "nay" on **HB 85**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Walton moved that he be recorded as voting "nay" on the motion to table Floor Amendment No. 35 to **HB 85**. Agreed.

Representative Wayne moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Wayne moved that he be recorded as voting "nay" on Floor Amendment No. 34 to **HB 85**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 670**, Representative Callahan; **HB 583**, Representative McKee; **HJR 118**, Representative Deskins.

Announcements

The following meetings were announced:

Appropriations and Revenue, Room 129, 8:00 a.m.

Labor and Industry, Room 125, 8:00 a.m.

Banking and Insurance, 8:30 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 12, 1998.

On the roll call the vote was **Yeas 62**--R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, D. Butler, D. D. Butler, Callahan, L. Clark, Coleman, Colter, Cox, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Hogancamp, Kerr, Lee, Lindsay, Mason, McKee, Miller, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Rasche, Reinhardt, Richards, Riner, Siler, Simpson, Sims, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 8**--Bratcher, Cave, Crall, Heleringer, Hoover, Maricle, Rader, Stewart.

The motion to adjourn was adopted.

THURSDAY, MARCH 12, 1998

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Scott Cox, First Christian Church, Georgetown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 11, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 133, SB 227, SB 230, SB 270, SB 300, SB 307, SB 311, SB 313, SB 318, SB 326, SB 337, SB 355, HB 185, HB 215, HB 259, HB 308, HB 352, HB 359, HB 361, HB 363, HB 366, HB 375, HB 405, HB 427, HB 445, HB 470,** and **HB 609**. Message received on **HB 307**: The Senate has passed **HB 307** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. Message received on **HB 391**: The Senate has passed **HB 391** with Senate Floor Amendment No. 1 and Senate Floor Amendment no. 2 and respectfully requests concurrence of this Honorable Body. (Time: 2:05 p.m.)

Representative G. Graham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative G. Graham moved the adoption of the following **Legislative Citation No. 148**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most ardent welcome to Mrs. Dorothy Mengering upon the occasion of her visit to Frankfort, Kentucky, on behalf of Kiwanis International's World Service Project to assist underdeveloped countries of the world eliminate Iodine Deficiency Disorders. This esteemed humanitarian is the author of a cookbook, the proceeds of which have been devoted to the IDD World Service Project, a project in cooperation with the United Nations Children's Fund to help governments carry out their pledges to iodize salt supplies in order to provide the children and citizens of these nations with the necessary nutrients to avoid this dreaded condition. The members of this august body are delighted to join with Representative Gippy Graham in applauding the extraordinary efforts of Mrs. Dorothy Mengering and in extending to her a welcoming hand as she joins the members of the 1998 General Assembly. **Legislative Citation No. 148** was adopted without objection.

Representatives Adkins moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 132, by Representative Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Irene Borders Patton.

Representative Adkins moved the adoption of the following **HR 132**:

HR 132, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Irene Borders Patton.

With deepest respect, we pay homage and tribute to the late Irene Borders Patton.

WHEREAS, mere words cannot express the power, beauty, and greatness of a mother's love; and

WHEREAS, Irene Borders Patton came into this world in 1916, a native of Ulysses, Kentucky, and traversed these earthly bounds on March 12, 1998, at the age of 81 after a lengthy battle with cancer; and

WHEREAS, Irene Borders Patton was the adored daughter of Roscoe and Nora Young Borders, and the loving wife of Ward Patton, her husband of 56 years, who preceded her in death; and

WHEREAS, Irene Borders Patton was the loving mother of Jo Ann Stanfill, Linda P. Erickson, and Governor Paul E. Patton, the "stars of her life," and the proud grandmother of eleven grandchildren and twenty-one great-grandchildren, the "superstars of her life"; and

WHEREAS, Irene Borders Patton was a working mother who helped establish and manage the Fallsburg Consolidated School lunchroom and worked there for nine years; and

WHEREAS, Irene Borders Patton was a longtime member of Walnut Grove Freewill Baptist Church in Ulysses, and attended the First Baptist Church in Louisa; and symbolic of her unfailing devotion to her faith, Irene Borders Patton devoted 23 years of her life to instilling moral and religious values into young children through her Sunday School teaching at Westmoreland Baptist Church in Huntington, West Virginia; and

WHEREAS, Irene Borders Patton was an involved citizen, as a distinguished member of the Louisa Chapter of the Eastern Star, the Lawrence County Democratic Women's Club, the United Democratic Women's Club of Lawrence County, and many more that are too numerous to mention here; and

WHEREAS, as sunset bears the promise of morning, and each raindrop the promise of blossom, so does departure from this life bring with it the promise of eternal life, and this thought should be a solace and comfort to the family and friends in this time of grief and loss; and

WHEREAS, the passing of Irene Borders Patton, a great woman rich in love for others, has left a void that will be difficult to fill, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of bereavement and loss upon the passing of Irene Borders Patton, and extends to her family its most heartfelt sympathy.

Section 2. The passion, dedication, and social consciousness that Irene Borders Patton brought to her community and to the Commonwealth of Kentucky will never be forgotten, and her influence will continue through her children.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Irene Borders Patton, who served as a symbol of inspiration, strength, and love to all the lives that she touched.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Governor Paul E. Patton, Office of the Governor, 700 Capital Avenue, Suite 100, Frankfort, KY 40601.

There being no objection **HR 132** was adopted. Roll call to show co-sponsors of **HR 132.** (See March 12, 1998 roll call on **HR 132** - Appendix)

Representative Coleman moved that the rules be suspended to welcome Representative Lovell back after an illness. Agreed.

Introduction of Resolutions

HCR 131, by Representatives Richards, Stumbo, Callahan, L. Clark and Barrows: A CONCURRENT RESOLUTION creating a Task Force on Public Education to review the status of elementary and secondary education in the Commonwealth.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Health and Welfare: **SB 72, SB 336**

Licensing and Occupations: **SB 380**

Transportation: **SJR 87**

Floor Amendments

Floor Amendment No. 5 to **HB 535**, by Representative Yonts:

On page 5, lines 1 and 2, after "***superintendent,***", by deleting "***the principal at the participating school***" and inserting in lieu thereof "***the school council***";

On page 5, lines 3 and 4, after "***vacancies***", by deleting, "***, after consultation with the school council***"; and

On page 5, by deleting lines 6 through 8 in their entirety;

On page 5, line 9, by changing "***(3)***" to "***(2)***";

On page 5, between lines 12 and 13, by inserting the following:

"***(3) The school council shall not use or be subjected to undue influence or unethical tactics in the hiring of employees. Undue influence or unethical tactics shall include but not be limited to:***

(a) Limiting the council's access to applicants; or

(b) The solicitation of applicants; or

(c) Promises of employment prior to:

1. The creation or vacancy of a position; or

2. The posting of the position in accordance with KRS 160.380; or

3. The placing of the position on a register in accordance with KRS 161.011.

Violation of this subsection shall subject the violator to procedures under Section 8 of this Act.".

Floor Amendment No. 6 to **HB 535**, by Representative Yonts:

On page 5, by deleting lines 2 through 14 in their entirety, and inserting the following:

"*(1) (a) From a list of applicants submitted by the local superintendent, the school council shall select certified personnel to fill vacancies. The school council shall not use undue influence or unethical tactics in the hiring of certified employees. Undue influence or unethical tactics shall include actions like the solicitation of applicants and making promises of employment before a position is created, becomes vacant, and is posted in accordance with KRS 160.380. The school council shall not delegate its responsibility to any committee to interview the applicants and make the decision on who is hired. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. The superintendent shall provide additional applicants upon request when qualified applicants are available.*

(b) The superintendent shall review the selection process for each person selected by the school council within fourteen (14) days of the selection to verify the selection process was conducted by the school council in accordance with this subsection. If he or she determines that the process was unduly influenced or unethical tactics were used, the superintendent shall declare the selection void and require the selection process to be reinstituted with the assurance that each applicant will be given due and just consideration. If the school council is unable to afford each applicant due and just consideration, the superintendent shall select the applicant to be hired.

(2) From a list of applicants submitted by the local superintendent, the principal shall select classified personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. Personnel decisions made at the school level under the authority of this section shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

Floor Amendment No. 2 to the Committee Substitute to **HB 255**, by Representative Mason:

On page 5, line 22, by inserting a "*(1)*" before the word "*In*"; and

On page 5, after line 25 but before line 26, by inserting the following:

"*(2) The plan referred to in subsection (1) of this section shall include preventive dental services, tooth extraction, and emergency dental services.*"

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Natural Resources and Environment: **HB 877, SB 164, SJR 118**

Report of Committees

The Committee on Banking and Insurance reported **HB 555**, with Committee Amendments attached thereto, **HB 786**, with Committee Substitute attached thereto, **HB 899**, with Committee Substitute attached thereto, and **SB 55**, with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 555, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act;

4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;

5. Chapter 55 of Title 10, United States Code;

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefits risk pool;

8. A health plan offered under Chapter 89 of Title 5, United States Code;

9. A public health plan, as defined in regulations; or

10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (4) of this section;

(2) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employees Retirement Income Security Act of 1974, 29 U.S.C. sec. 1161 et seq. other than sec. 1169; or

(c) 42 U.S.C. sec. 300bb;

(3) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1395j et seq. or a state plan under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq., and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a) and (b) of Section 8 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(4) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness; and

(m) Hospital indemnity or other fixed indemnity insurance; and

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Services Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(5) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; self-insured plan or plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure;

(6) "Health insurance insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association; or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky; and

(7) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act;

4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;

5. Chapter 55 of Title 10, United States Code;

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A State health benefits risk pool;

8. A health plan offered under Chapter 89 of Title 5, United States Code;

9. A public health plan, as defined in regulations; or

10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (4) of this section;

(2) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employees Retirement Income Security Act of 1974, 29 U.S.C. sec. 1161 et seq. other than Section 1169; or

(c) 42 U.S.C. sec. 300bb;

(3) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1395j et seq., or a state plan under Title XIX of the Social Security Act, 42 U.S.C. sec. 1396 et seq., and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a) and (b) of Section 8 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(4) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Services Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(5) "Group health plan" means an employee welfare benefit plan as defined in 29 U.S.C. sec. 1002(1) to the extent that the plan provides medical care to employees or their dependents directly or through insurance, reimbursement, or otherwise;

(6) "Group health insurance coverage" means, in connection with a group health plan, health insurance coverage offered in connection with such a plan;

(7) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; self-insured plan or plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure; and

(8) "Health insurance insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association; or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

SECTION 3. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer that offers health insurance coverage in the individual market may not, with respect to an eligible individual desiring to enroll in individual health insurance coverage, decline to offer coverage to, or deny enrollment of, the individual and shall comply with the provisions of subsections (2) to (8) of this section.

(2) Subject to the succeeding subsections of this section, each insurer that offers health insurance coverage in the individual market in Kentucky may not, with respect to an eligible individual desiring to enroll in individual health insurance coverage, decline to offer such coverage to, or deny enrollment of, the individual, or impose any

preexisting condition exclusion with respect to that coverage.

(3) (a) In the case of health insurance coverage offered in the individual market in Kentucky, the insurer may elect to limit the coverage offered under subsection (1) of this section so long as it offers at least two (2) different policy forms of health insurance coverage both of which:

1. Are designed for, made generally available to, and actively marketed to, and enroll both eligible and other individuals by the insurer; and

2. Meet the requirement of paragraph (b) or (c) of this subsection, as elected by the insurer.

For purposes of this subsection, policy forms which have different cost-sharing arrangements or different riders shall be considered to be different policy forms.

(b) The requirement of this paragraph that there be a choice of the most popular policy forms is met, for health insurance coverage policy forms offered by an insurer in the individual market, if the insurer offers the policy forms for individual health insurance coverage with the largest, and next-to-largest, premium volume of all such policy forms offered by the insurer in Kentucky or applicable marketing or service area, as may be prescribed in administrative regulation, by the insurer in the individual market in the period involved.

(c) 1. The requirement of this paragraph that there be a choice of two (2) policy forms with representative coverage is met, for health insurance coverage policy forms offered by an insurer in the individual market, if the insurer offers a lower-level coverage policy form, as defined in subparagraph 2. of this paragraph, and a higher-level coverage policy form, as defined in subparagraph 3. of this paragraph, each of which includes benefits substantially similar to other individual health insurance coverage offered by the insurer in Kentucky and each of which is covered under a method which provides for risk adjustment, risk spreading, or a risk spreading mechanism among insurers or policies of an insurer or otherwise provides for some financial subsidization for eligible individuals, including through assistance to participating insurers;

2. A policy form is described in this subparagraph if the actuarial value of the benefits under the coverage is at least eighty-five percent (85%) but not greater than one hundred percent (100%) of a weighted average as described in subparagraph 4. of this paragraph.

3. A policy form is described in this subparagraph if:

a. The actuarial value of the benefits under the coverage is at least fifteen percent (15%) greater than the actuarial value of the coverage described in subparagraph 2. of this paragraph offered by the insurer in the area involved; and

b. The actuarial value of the benefits under the coverage is at least one hundred percent (100%) but not greater than one hundred twenty percent (120%) of a weighted average as described in subparagraph 4. of this paragraph.

4. For purposes of this paragraph, the weighted average described in this subparagraph is the average actuarial value of the benefits provided by all the health insurance coverage issued, as elected by the insurer either by that insurer or by all insurers in Kentucky in the individual market during the previous year, not including coverage issued under this section, weighted by enrollment for the different coverage.

(d) The insurer elections under this subsection shall apply uniformly to all eligible individuals in Kentucky for that insurer. Such an election shall be effective for policies offered during a period of not shorter than two (2) years.

(e) For purposes of paragraph (c) of this subsection, the actuarial value of benefits provided under individual health insurance coverage shall be calculated based on a standardized population and a set of standardized utilization and cost factors.

(4) (a) In the case of an insurer that offers health insurance coverage in the individual market through a network plan, the insurer may:

1. Limit the individuals who may be enrolled under this coverage to those who live, reside, or work within the service area for this network plan; and

2. Within the service area of the plan, deny this coverage to those individuals if the insurer has demonstrated to the commissioner that:

a. It will not have the capacity to deliver services adequately to additional individual enrollees because of its obligations to existing group contract holders and enrollees and individual enrollees; and

b. It is applying this paragraph uniformly to individuals without regard to any health status-

related factor of those individuals and without regard to whether the individuals are eligible individuals.

(b) An insurer, upon denying health insurance coverage in any service area in accordance with paragraph (a)2. of this subsection, may not offer coverage in the individual market within that service area for a period of one hundred eighty (180) days after the coverage is denied.

(5) (a) A health insurance insurer may deny health insurance coverage in the individual market to an eligible individual if the insurer has demonstrated to the commissioner that:

1. It does not have the financial reserves necessary to underwrite additional coverage; and

2. It is applying this paragraph uniformly to all individuals in the individual market in Kentucky consistent with provisions of this chapter and without regard to any health status-related factor of those individuals and without regard to whether the individuals are eligible individuals.

(b) An insurer, upon denying individual health insurance coverage in any service area in accordance with paragraph (a) of this subsection, may not offer this coverage in the individual market within that service area for a period of one hundred eighty (180) days after the date the coverage is denied or until the insurer has demonstrated to the commissioner that the insurer has sufficient financial reserves to underwrite additional coverage, whichever is later. This paragraph may be applied on a service-area-specific basis.

(6) The provisions of subsection (2) of this section shall not be construed to require that an insurer offering health insurance coverage only in connection with group health plans or through one (1) or more bona fide associations, or both, offer such health insurance coverage in the individual market. An insurer offering health insurance coverage in connection with group health plans under this title shall not be deemed to be an insurer offering individual health insurance coverage solely because the insurer offers a conversion policy.

(7) Nothing in this section shall be construed:

(a) To restrict the amount of the premium rates that an insurer may charge an individual for health insurance coverage provided in the individual market under the provisions of this chapter; or

(b) To prevent an insurer offering health insurance coverage in the individual market from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(8) Each insurer that offers health insurance coverage in the individual market may not, with respect to an individual who is not an eligible individual under this section, and who desires to enroll in individual health insurance coverage, decline to offer coverage to, or deny enrollment of, the individual if the individual:

(a) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of this Act;

(b) Is covered under an individual health benefit plan on the effective date of this Act;

(c) Has been covered under an individual health benefit plan for the entire eighteen (18) months immediately preceding the effective date of this Act; and

(d) The coverage referred to in paragraph (c) of this subsection did not consist solely of coverage for excepted benefits as defined in Section 1 of this Act.

SECTION 4. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Subject to paragraph (b) of this subsection, a group health plan, and an insurer offering group health insurance coverage in connection with a group health plan, may not establish rules for eligibility, including continued eligibility of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or a dependent of the individual:

1. Health status;

2. Medical condition, including both physical and mental illnesses;

3. Claims experience;

4. Receipt of health care;

5. Medical history;

6. Genetic information;

7. Evidence of insurability, including conditions arising out of acts of domestic violence; or

8. Disability.

(b) Paragraph (a) of this subsection shall not be construed:

1. To require a group health plan, or group health insurance coverage, to provide particular benefits *other than those provided under the terms of that plan or coverage; or*

2. To prevent such a plan or coverage from establishing limitations or restrictions on the amount, level, extent, or nature of the benefits or coverage for similarly situated individuals enrolled in the plan or coverage.

(c) For purposes of paragraph (a) of this subsection, rules for eligibility to enroll under a plan include rules defining any applicable waiting periods for the enrollment.

(2) (a) A group health plan, and an insurer offering health insurance coverage in connection with a group health plan, may not require any individual, as a condition of enrollment or continued enrollment under the plan, to pay a premium or contribution which is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or to an individual enrolled under the plan as a dependent of the individual.

(b) Nothing in paragraph (a) of this subsection shall be construed:

1. To restrict the amount that an employer may be charged for coverage under a group health plan; or

2. To prevent a group health plan, and an insurer offering group health insurance coverage, from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

SECTION 5. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise:

(a) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year; and

(b) "Small group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan maintained by a small employer.

(2) Each insurer that offers health insurance coverage in the small group market shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every eligible individual who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan and shall comply with the provisions of subsections (3) to (6) of this section.

(3) (a) Subject to subsections (4) to (6) of this section, each insurer that offers health insurance coverage in the small group market in Kentucky:

1. Shall accept every small employer in Kentucky that applies for this coverage; and

2. Shall accept for enrollment under this coverage every eligible individual, as defined in paragraph (b) of this subsection, who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan and may not place any restriction which is inconsistent with Section 4 of this Act on an eligible individual being a participant or beneficiary.

(b) For purposes of this section, the term "eligible individual" means, with respect to an insurer that offers health insurance coverage to a small employer in connection with a group health plan in the small group market, such an individual in relation to the employer as shall be determined:

1. In accordance with the terms of such plan;

2. As provided by the insurer under rules of the insurer which are uniformly applicable in Kentucky to small employers in the small group market; and

3. In accordance with all applicable state laws governing this insurer and this market.

(4) (a) In the case of an insurer that offers health insurance coverage in the small group market through a network plan, the insurer may:

1. Limit the employers that may apply for this coverage to those with eligible individuals who live, work, or reside in the service area for this network plan; and

2. Within the service area of the plan, deny coverage to these employers if the insurer has demonstrated to the commissioner that:

a. It will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees; and

b. It is applying this paragraph uniformly to all employers without regard to the claims experience of those employers and their employees, and their dependents, or any health status-

related factor relating to those employees and dependents.

(b) An insurer, upon denying health insurance coverage in any service area in accordance with paragraph (a)2. of this subsection, may not offer coverage in the small group market within that service area for a period of one hundred eighty (180) days after the date this coverage is denied.

(5) (a) An insurer may deny health insurance coverage in the small group market if the insurer has demonstrated to the commissioner that:

1. It does not have the financial reserves necessary to underwrite additional coverage; and

2. It is applying this paragraph uniformly to all employers in the small group market in Kentucky consistent with this chapter and without regard to the claims experience of those employers and their employees, and their dependents, or any health status-related factor relating to those employees and dependents.

(b) An insurer, upon denying health insurance coverage in connection with group health plans in accordance with paragraph (a) of this subsection, may not offer coverage in connection with group health plans in the small group market in Kentucky for a period of one hundred eighty (180) days after the date the coverage is denied or until the insurer has demonstrated to the commissioner that the insurer has sufficient financial reserves to underwrite additional coverage, whichever is later. The commissioner by administrative regulation may provide for the application of this subsection on a service-area-specific basis.

(6) (a) Subsection (3) of this section shall not be construed to preclude an insurer from establishing employer contribution rules or group participation rules for the offering of health insurance coverage in connection with a group health plan in the small group market, as allowed under this chapter.

(b) For purposes of paragraph (a) of this subsection:

1. The term "employer contribution rule" means a requirement relating to the minimum level or amount of employer contribution toward the premium for enrollment of participants and beneficiaries; and

2. The term "group participation rule" means a requirement relating to the minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of eligible individuals or employees of an employer.

(7) Subsection (3) of this section shall not apply to health insurance coverage offered by an insurer if this coverage is made available in the small group market only through one (1) or more bona fide associations.

SECTION 6. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All group health plans and insurers offering group health insurance coverage in the Commonwealth shall comply with the provisions of this section.

(2) Subject to subsection (5) of this section, a group health plan, and an insurer offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a pre-existing condition exclusion only if:

(a) The exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six (6) month period ending on the enrollment date;

(b) The exclusion extends for a period of not more than twelve (12) months, or eighteen (18) months in the case of a late enrollee, after the enrollment date; and

(c) The period of any such pre-existing condition exclusion is reduced by the aggregate of the periods of creditable coverage, or applicable to the participant or beneficiary as of the enrollment date.

(3) For purposes of this section:

(a) 1. "Pre-existing condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for that coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that date.

2. Genetic information shall not be treated as a condition described in subparagraph 1. of this paragraph in the absence of a diagnosis of the condition related to this information;

(b) "Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment;

(c) "Late enrollee" means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during:

1. The first period in which the individual is eligible to enroll under the plan; or

2. A special enrollment period under subsection (7) of this section; and

(d) "Waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

(4) (a) A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after the period and before the enrollment date, there was a sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

(b) For purposes of paragraph (a) of this subsection and subsection (5)(d) of this section, any period that an individual is in a waiting period for any coverage under a group health plan or for group health insurance coverage or is in an affiliation period, as defined in subsection (8)(b) of this section, shall not be taken into account in determining the continuous period under paragraph (a) of this subsection.

(c) 1. Except as otherwise provided under paragraph (b) of this subsection, for purposes of applying subsection (2)(c) of this section, a group health plan and an insurer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

2. A group health plan, or an insurer offering group health insurance coverage, may elect to apply subsection (2)(c) of this section based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided under paragraph (a) of this subsection. This election shall be made on a uniform basis for all participants and beneficiaries. Under this election a group health plan or insurer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within this class or category.

3. In the case of an election with respect to a group health plan under paragraph (b) of this subsection, whether or not health insurance coverage is provided in connection with the plan, the plan shall:

a. Prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made this election; and

b. Include in these statements a description of the effect of this election.

(d) Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (6) of this section or in such other manner as may be specified in administrative regulations.

(5) (a) Subject to paragraph (d) of this subsection, a group health plan, and an insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion in the case of an individual who, as of the last day of the thirty (30) day period beginning with the date of birth, is covered under creditable coverage.

(b) Subject to paragraph (d) of this subsection, a group health plan, and an insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion in the case of a child who is adopted or placed for adoption before attaining eighteen (18) years of age and who, as of the last day of the thirty (30) day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of the adoption or placement for adoption.

(c) A group health plan, and insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion relating to pregnancy as a pre-existing condition.

(d) Paragraphs (a) and (b) of this subsection shall no longer apply to an individual after the end of the first sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

(6) (a) 1. A group health plan, and an insurer offering group health insurance coverage, shall provide the certification described in subparagraph 2. of this subsection:

a. At the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision;

b. In the case of an individual becoming covered under such a provision, at the time the individual ceases to be covered under the provision; and

c. On the request on behalf of an individual made not later than twenty-four (24) months after the date of cessation of the coverage described in subdivision a. or b. of this subparagraph, whichever is later.

The certification under subdivision a. of this subparagraph may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

2. The certification described in this subparagraph is a written certification of:

a. The period of creditable coverage of the individual under the plan and the coverage, if any, under the COBRA continuation provision; and

b. The waiting period, if any, and affiliation period, if applicable, imposed with respect to the individual for any coverage under the plan.

3. To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance insurer offering the coverage provides for the certification in accordance with this paragraph.

(b) In the case of an election described in subsection (4)(c)2. of this section by a group health plan or health insurance insurer, if the plan or insurer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (a) of this subsection:

1. Upon request of the plan or insurer, the entity which issued the certification provided by the individual shall promptly disclose to the requesting plan or insurer information on coverage of classes and categories of health benefits available under the entity's plan or coverage; and

2. The entity may charge the requesting plan or insurer for the reasonable cost of disclosing this information.

(7) (a) A group health plan, and an insurer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan, or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under these terms, to enroll for coverage under the terms of the plan if each of the following conditions is met:

1. The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent;

2. The employee stated in writing at that time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or insurer, if applicable, required such a statement at that time and provided the employee with notice of the requirement, and the consequences of the requirement, at that time;

3. The employee's or dependent's coverage described in subparagraph 1. of this paragraph:

a. Was under a COBRA continuation provision and the coverage under that provision was exhausted; or

b. Was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage, including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment, or employer contributions toward the coverage were terminated; and

4. Under the terms of the plan, the employee requests the enrollment not later than thirty (30) days after the date of exhaustion of coverage described in subparagraph 3.a. of this paragraph or termination of coverage or employer contribution described in subparagraph 3.b. of this paragraph.

(b) 1. If:

a. A group health plan makes coverage available with respect to a dependent of an individual;

b. The individual is a participant under the plan, or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period; and

c. A person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption; the group health plan shall provide for a dependent special enrollment period described in subparagraph 2. of this paragraph during which the person or, if not otherwise enrolled, the individual, may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if the spouse is otherwise eligible for coverage.

2. A dependent special enrollment period under this subparagraph shall be a period of not less than thirty (30) days and shall begin on the later of:

a. The date dependent coverage is made available; or *b. The date of the marriage, birth, or adoption or placement for adoption, as the case may be, described in subparagraph 1.c. of this paragraph.*

3. If an individual seeks to enroll a dependent during the first thirty (30) days of such a dependent special enrollment period, the coverage of the dependent shall become effective:

a. In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

b. In the case of a dependent's birth, as of the date of such birth; or

c. In the case of a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.

(8) (a) In the case of a group health plan that offers medical care through health insurance coverage offered by a health maintenance organization, the plan may provide for an affiliation period with respect to coverage through the organization only if:

1. No pre-existing condition exclusion is imposed with respect to coverage through the organization;

2. The period is applied uniformly without regard to any health status-related factors; and

3. The period does not exceed two (2) months, or three (3) months in the case of a late enrollee.

(b) 1. For purposes of this section, the term "affiliation period" means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during this period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

2. This period shall begin on the enrollment date.

3. An affiliation period under a plan shall run concurrently with any waiting period under the plan.

(c) A health maintenance organization described in paragraph (a) of this subsection may use alternative methods other than those described in that paragraph to address adverse selection as approved by the commissioner.

SECTION 7. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer offering individual health insurance coverage in the individual market in the Commonwealth shall not impose any pre-existing exclusions as to any eligible individual.

(2) Each insurer offering individual health insurance coverage in the individual market in the Commonwealth that chooses to impose a pre-existing conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of Section 6 of this Act.

SECTION 8. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, an insurer that provides individual health insurance coverage to an individual shall renew or continue in force coverage at the option of the individual.

(2) An insurer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one (1) or more of the following:

(a) The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the insurer has not received timely premium payments;

(b) The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The insurer is ceasing to offer coverage in the individual market in accordance with subsection (3) of this section;

(d) In the case of an insurer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area, or in an area for which the insurer is authorized to do business, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals; or

(e) In the case of health insurance coverage that is made available in the individual market only through one (1) or more bona fide associations, the membership of the individual in the association, on the basis of which the coverage is provided, ceases but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health insurance coverage offered in the individual market, coverage of the type may be discontinued by the insurer only if:

1. The insurer provides notice to each covered individual provided coverage of this type in the market of *the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;*

2. The insurer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the insurer for individuals in the market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which a health insurance insurer elects to discontinue offering all health insurance coverage in the individual market in Kentucky, health insurance coverage may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each individual of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health insurance issued or delivered for issuance in Kentucky in the market is discontinued and coverage under the health insurance coverage in the market is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph in the individual market, the insurer may not provide for the issuance of any health insurance coverage in the market in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(4) At the time of coverage renewal, an insurer may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of health insurance coverage that is made available by an insurer in the individual market to individuals only through one (1) or more associations, a reference to an individual is deemed to include a reference to such an association of which the individual is a member.

SECTION 9. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, if an insurer offers health insurance coverage in the group market in connection with a group health plan, the insurer shall renew or continue in force coverage at the option of the plan sponsor of the plan.

(2) An insurer may nonrenew or discontinue health insurance coverage offered in connection with a group health plan in the group market based only on one (1) or more of the following:

(a) The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the insurer has not received timely premium payments;

(b) The plan sponsor has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The plan sponsor has failed to comply with a material plan provision relating to employer contribution or group participation rules;

(d) The insurer is ceasing to offer coverage in the group market in accordance with subsection (3) of this section;

(e) In the case of an insurer that offers health insurance coverage in the market through a network plan, there is no longer any enrollee in connection with the plan who resides, lives, or works in the service area of the insurer or in the area for which the insurer is authorized to do business; or

(f) In the case of health insurance coverage that is made available in the group market only through one (1) or more bona fide associations, the membership of an employer in the association, on the basis of which the coverage is provided, ceases but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health insurance coverage offered in the group market, coverage of the type may be discontinued by the insurer in the market only if:

1. The insurer provides notice to each plan sponsor provided coverage of this type in the market, and participants and beneficiaries covered under the coverage, of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The insurer offers to each plan sponsor provided coverage of this type in the market, the option to purchase all other health insurance coverage currently being offered by the insurer to a group health plan in the market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage

under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to the claims experience of those sponsors or any health status-related factor relating to any participants or beneficiaries covered or new participants or beneficiaries who may become eligible for coverage.

(b) 1. In any case in which an insurer elects to discontinue offering all health insurance coverage in the group market in Kentucky, health insurance coverage may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each plan sponsor, and participants and beneficiaries covered under the coverage, of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health insurance issued or delivered for issuance in Kentucky in the market is discontinued and coverage under the health insurance coverage in the market is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph in the group market, the insurer may not provide for the issuance of any health insurance coverage in the market in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(4) At the time of coverage renewal, an insurer may modify the health insurance coverage for a product offered to a group health plan in the group market if, for coverage that is available in the market other than only through one (1) or more bona fide associations, the modification is consistent with this chapter and effective on a uniform basis among group health plans with that product.

(5) In applying this section in the case of health insurance coverage that is made available by an insurer in the group market to employers only through one (1) or more associations, a reference to plan sponsor is deemed, with respect to coverage provided to an employer member of the association, to include a reference to the employer.

SECTION 10. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995, until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky may apply to the commissioner on or after the effective date of this Act for approval to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

SECTION 11. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995, until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky may apply to the commissioner on or after the effective date of this Act for approval to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 12. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed[~~ with the commissioner~~]. The insurer may submit new filings from time to time as it deems proper[~~, except as provided in subsection (5) of this section~~].

(2) (a) ***Within thirty (30) days after the filing, the commissioner shall enter an order approving or disapproving the filing, except***[~~Each filing under this section shall be on file for a waiting period of thirty (30) days before it becomes effective.~~] the period may be extended by the commissioner for an additional period not to exceed thirty (30) days if the commissioner gives notice within the waiting period to the insurer that[~~ it needs~~] the additional time ***is necessary*** for consideration of the filing.

(b) At the end of the thirty (30) day period, or any additional period if extended by the commissioner pursuant to this subsection, the filing shall be deemed approved unless prior thereto it has been disapproved by order of the commissioner or the commissioner has directed that a hearing be held.

(c)[~~(b)~~]The commissioner may ***issue an order scheduling***[~~hold~~] a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.

[~~(c) If the filing contains an average premium rate increase which will result in a percentage increase over the insurer's average existing rates that is greater than the percentage change in the medical care consumer price index for all urban consumers for the South region as published by the federal Bureau of Labor Statistics, plus three percent (3%), since the last filing of the insurer for any of the same policies or contracts, the commissioner shall hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle,~~]

~~or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~]

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) Other factors as deemed relevant by the commissioner.

(4) Not less than ten (10) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General ***may***[~~shall~~] participate as a health insurance consumer intervenor and be considered a party to the hearing.

(5) ***The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal.***

(6) Notwithstanding subsection (5) of this section, any health benefit plan in effect on the effective date of this Act may, on any renewal date before July 1, 1999, be renewed for a period less than twelve (12) months if both the policyholder and the insurer agree[~~No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate or fee increase for any of the same policies or contracts until at least twelve (12) months have elapsed following the effective date of the approved increase~~].

(7) The premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-risk condition during the period from July 15, 1995, until the effective date of this Act for a new rating period, shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after the effective date of this Act. The total increase shall not exceed a maximum of thirty-five percent (35%) of the index rate.

(8)[~~(6)~~] At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund to policyholders, enrollees, and subscribers if the commissioner determines that the benefits are no longer reasonable in relation to the premiums or fees charged.

(9) Subsection (2)(a) and (b) of this section shall not apply if the filing is accompanied by a minimum loss ratio guarantee. Insurers may use the premium rates contained in a filing accompanied by a minimum loss ratio guarantee upon filing with the department. Insurers may use the filing procedure specified in this subsection only if the affected policy forms disclose the benefit of a minimum loss ratio. Once an insurer elects to use the filing procedure in this section for a policy form or forms, the insurer shall not use a filing of premium rates which does not provide a minimum loss ratio guarantee for that policy form or forms.

(a) The minimum loss ratio guarantee shall be in writing and shall contain at least the following:

1. An actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this section;

2. Detailed experience information concerning the policy form;

3. A step-by-step description of the process used to develop the experience loss ratio;

4. A guarantee of a specific minimum loss ratio, which shall be greater than or equal to the following, taking into consideration adjustments for duration as set forth in administrative regulations promulgated by the commissioner:

a. Sixty-five percent (65%) for policies issued to individuals;

b. Sixty-five percent (65%) for policies issued to groups of two (2) to ten (10) individual members or employees; and

c. Seventy percent (70%) for policies issued to groups of eleven (11) to fifty (50) individual members or employees;

5. A guarantee that the actual Kentucky loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in subparagraph 4. of this paragraph; and

6. If the annual earned premium volume in Kentucky under the particular policy form is less than two million five hundred thousand dollars ($2,500,000), the minimum loss ratio guarantee shall be based

partially on the Kentucky earned premium and other creditability factors as specified by the commissioner.

(b) The actual Kentucky minimum loss ratio results for each year at issue shall be independently audited at the insurer's expense and the audit shall be filed with the commissioner not later than one hundred twenty (120) days after the end of the year at issue.

(c) The insurer shall refund premiums in the amount necessary to bring the actual aggregate loss ratio up to the guaranteed minimum loss ratio.

(d) A Kentucky policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund shall be made to all Kentucky policyholders insured under the applicable policy form as of December of the year at issue if the refund would equal ten dollars ($10) or more per policy. The refund shall include statutory interest from July 1 of the year at issue until the date of payment. Payment shall be made not later than one hundred eighty (180) days after the end of the year at issue.

(e) Premium refunds of less than ten dollars ($10) per insured shall be aggregated by the insurer and paid to the insurance regulatory trust fund.

(10)[~~(7)~~] The commissioner may by administrative regulation prescribe any additional information it deems relevant to be included in the filings and the form of the filings required by this section.

[~~(8) Because of the duties of the commissioner imposed under KRS 304.17A-090, the commissioner may, between July 15, 1996, and December 31, 1996, in addition to the thirty (30) day extension allowed under subsection (2) of this section, further extend the waiting period and the time for holding a hearing up to two (2) additional thirty (30) day periods upon thirty (30) days' written notice to the insurer of each extension that the additional periods are necessary due to proper fulfillment of the commissioner's duties under KRS 304.17A-090.~~]

Section 13. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 14. KRS 304.18-050 is amended to read as follows:

[~~(1)~~]Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.

[~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

~~(a) Was in existence on January 30, 1996;~~

~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~

~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~

~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~

~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability~~

~~of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~]If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 15. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to[~~ standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 16. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 3 -- Authorization of Insurers and General Requirements;

(4) Subtitle 4 -- Fees and Taxes;

(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;

(6) Subtitle 7 -- Investments;

(7) Subtitle 12 -- Trade Practices and Frauds;

(8) Subtitle 14 -- KRS 304.14-500 to 304.14-560;

(9) Subtitle ***17 -- Sections 1, 3, 7, 8, and 10 of this Act;***

(10) Subtitle 17A -- Health Benefit Plans;

(11)[~~(10)~~] Subtitle 18 -- ***Sections 2, 4, 5, 6, 9, and 11 of this Act***[~~KRS 304.18-050~~];

(12)[~~(11)~~] Subtitle 25 -- Continuity of Management;

(13)[~~(12)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(14)[~~(13)~~] Subtitle 37 -- Insurance Holding Company Systems; and

(15)[~~(14)~~] Subtitle 99 -- Penalties.

[~~The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.~~]

SECTION 17. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each individual health insurance policy issued, delivered, or renewed on or after the effective date of this Act that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 18. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each group health insurance policy issued, delivered, or renewed on or after the effective date of this Act that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 19. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each policy, contract, or plan issued, delivered, or renewed on or after the effective date of this Act that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 20. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each certificate, agreement, policy, or contract issued, delivered, or renewed by a health maintenance organization on or after the effective date of this Act that provides coverage for a family member of the insured shall provide that the benefits applicable for children shall be payable with respect to legally adopted children of the insured or any child for which the insured is a court-appointed guardian from and after the date of the filing of the petition for adoption or the filing of the application for appointment of guardian.

SECTION 21. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An individual health insurance policy issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 22. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A group health insurance policy issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 23. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A policy, contract, or plan issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 24. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A certificate, agreement, policy, or contract issued or renewed on or after the effective date of this Act that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a policy if the policy authorizes an initial postpartum home visit that would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly born child, authorizes a shorter length of stay than that required of policies in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

SECTION 25. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created under this subtitle shall not issue or renew any business on or after the effective date of this Act. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than June 30, 1999, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on July 1, 1999.

(2) No health benefit plans shall be issued, delivered, or renewed under the provisions of this subtitle on or after the effective date of this Act. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS Chapter 17A until the end of the contract or policy period. The provisions of KRS 304.17A-100 to 304.17A-160 shall become null and void on January 1, 1999.

(3) Coverage of an individual who is not a state employee or of a small group which on the effective date of this Act is covered under KRS 18A.2251 or KRS 18A.2281 shall not be renewed after the effective date of this Act.

SECTION 26. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in KRS 304.17A-300, 304.17A-310, and Section 12 and Sections 26 to 40 and Section 41 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

(b) With respect to a pregnant woman who is having contractions:

1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child;

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(6) "Health insurance policy" means "health benefit plan" as defined in Section 1 of this Act;

(7) "Insurer" has the meaning provided in Section 1 of this Act;

(8) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(9) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(10) "Provider-sponsored integrated health delivery network" means an organization which is wholly owned, governed, and managed by health care providers, and which provides directly, or through arrangements with others, a health benefit plan to consumers voluntarily enrolled with the organization on a per capita or a predetermined, fixed prepayment basis;

(11) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(12) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(13) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 27. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

(j) Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

SECTION 28. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 27 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;

(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network provider is board certified; and

(b) Whether a particular network provider is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursements; and

(b) A current description of its organizational structure and operation.

SECTION 29. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists for access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to

urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish relevant, objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age, and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy within the health care provider's legally authorized scope of practice, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of health care providers and enrollees regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating health care providers;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in the professional opinion of a provider with prescriptive authority, the provider determines that generic substitution of a pharmaceutical product is medically inappropriate, the provider shall prescribe the pharmaceutical product the provider determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the provider's approval.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer that limits coverage for any treatment, procedure, drug, or device shall define the limitations and fully disclose those limits in the health insurance policy or certificate coverage.

(2) (a) Any insurer that denies coverage for a treatment, procedure, drug, or device for an enrollee shall provide the enrollee with a denial letter that shall include:

1. The name, license number, state of licensure, and title of the person making the decision;

2. A statement setting forth the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;

3. A description of other alternative treatment, services, or supplies covered by the plan, if any; and

4. Instructions for initiating or complying with the plan's grievance or appeal procedure stating at a minimum whether the appeal must be in writing, any time limitations or schedules for filing appeals and the name and phone number of a contact person who can provide additional information.

(b) The denial letter shall be provided within:

1. Two (2) regular working days of the submitted request where preauthorization for a treatment, *procedure, drug, or device is involved;*

2. Twenty-four (24) hours of the submitted request where hospital preadmission review is sought;

3. Twenty (20) working days of the receipt of requested medical information where the plan has initiated a retrospective review; and

4. Twenty (20) working days of the initiation of the review process in all other instances.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in Kentucky or a contiguous state, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician, except in the case of a health care service rendered by a chiropractor or optometrist, that decision shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements;

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history;

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of

complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer that offers a managed care plan shall offer a benefit plan with out-of-network benefits to every contract holder that would allow a covered person to receive covered services from out-of-network health care providers without having to obtain a referral. The plan with out-of-network benefits may require that an enrollee pre-certify selected services and pay a higher deductible, copayment, coinsurance, excess charges, and higher premium for the out-of-network benefit plan pursuant to limits established by administrative regulations promulgated by the department.

(2) An insurer shall provide each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits, with the opportunity at the time of enrollment and during the annual open enrollment period, to enroll in the out-of-network option. The insurer and employer group shall provide written notice of the benefit plan with out-of-network benefits to each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits and shall include in that notice a detailed explanation of the financial costs to be incurred by an enrollee who selects the plan.

(3) The requirement of this section shall not apply to an insurer contract which offers a managed care plan that provides health care services solely to Medicaid or Medicare recipients.

(4) Managed care plans currently licensed and doing business in Kentucky that do not yet offer benefit plans with out-of-network benefits must develop and offer those plans within three hundred sixty-five (365) days of the effective date of this Act.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information concerning the patient from a patient's record as is necessary for determining covered services and benefits, medical necessity, appropriateness, and quality of care for authorization or continuation of mental health and chemical dependency health services to be provided to the patient, or for payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific written consent to the redisclosure.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates and performance-based contract terms that would result in the health insurer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 26 to 40 of this Act and shall promulgate administrative regulations necessary to carry out the provisions of Sections 26 to 40 of this Act.

SECTION 40. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after the date ninety (90) days after the effective date of this Act, unless it and the insurer meet the requirements of Sections 26 to 40 of this Act.

Section 41. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer~~[as defined in KRS 304.17A-100]~~, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by subsections (1) and (2) of this section.

Section 42. KRS 304.17A-170 is amended to read as follows:

As used in this section and KRS 304.17A-171, unless the context requires otherwise:

(1) (a) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; ***and*** health maintenance organization contract[~~; and standard and supplemental health benefit plan as established in KRS 304.17A-160~~], which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky.

(b) "Health benefit plan" does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance or, upon approval by the Kentucky Health Policy Board, individual limited guaranteed renewable hospital or medical expense policies[~~ whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, or conversion policies for group health policies existing on January 1, 1994, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to KRS 304.17A-160~~].

(2) "Primary chiropractic provider" means a chiropractor licensed pursuant to KRS Chapter 312 who has been selected by a person covered by a health benefit plan to provide chiropractic service and who agrees to provide within the statutory scope of their respective practices these services in accordance with the terms, conditions, reimbursement rates, and standards of quality as set forth within the specific health benefit plan.

(3) "Participating chiropractic provider" means a primary chiropractic provider who has contracted with a health insurer to provide chiropractic services within the proper scope of practice to persons insured under the health benefit plan of the insurer.

(4) "Chiropractic benefits" means those services that are provided by a primary chiropractic provider who is functioning within the statutory scope of practice.

(5) "Gatekeeper system" means a system of administration used by any health benefit plan in which a primary care provider furnishes basic patient care and coordinates diagnostic testing, indicated treatment, and specialty referral for persons covered by the health benefit plan.

(6) "Gatekeeper" means a covered person's primary care provider in a gatekeeper system.

(7) "Health care insurer" means any entity, including but not limited to insurance companies, hospital and medical services corporations, health maintenance organizations, preferred provider organizations, and physician hospital organizations, that is authorized by the state of Kentucky to offer or provide health benefit plans, policies, subscriber contracts, or any other contracts of similar nature which indemnify or compensate health care providers for the provision of health care services.

(8) "Covered persons" means any individual or family who is enrolled in a health benefit plan or policy from a health care insurer and on whose behalf the health care insurer is obligated to pay for or provide chiropractic services.

(9) "Covered service" means those health care services including chiropractic services which the health care insurer is obligated to pay for or provide to covered persons under the health benefit plan or policy or pursuant to KRS 304.17-305 or 304.18-095.

Section 43. KRS 304.17A-080 is repealed, reenacted as a new section of Subtitle 2 of KRS Chapter 304, and amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duty shall be to review and discuss

with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following:

(a)[~~ The design of the standard health benefit plans pursuant to KRS 304.17A-160;~~

~~(b)~~] The rate-filing process for all health benefit plans;

(b)[~~(c) The definition of high-risk conditions;~~

~~(d)~~] The administrative regulations concerning this subtitle to be promulgated by the department; and

(c)[~~(e)~~]Other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

[~~(5) The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner.~~]

Section 44. The following KRS sections are repealed, effective July 1, 1999:

304.17A-010	Definitions for KRS 304.17A-010 to 304.17A-070.
304.17A-020	Kentucky Health Purchasing Alliance -- Regional advisory boards.
304.17A-030	Duties of the Kentucky Health Purchasing Alliance.
304.17A-040	Conditions of participation in the alliance.
304.17A-050	Duties of the Department of Insurance with respect to the alliance.
304.17A-060	Supervision of alliance by department relative to antitrust laws.
304.17A-070	Creation of accountable health plans -- Certification.
304.17A-090	Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 -- Refunds -- Suspension of certificate of authority -- Notification of review.
304.17A-100	Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.
304.17A-110	Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.
304.17A-120	Use of approved modified rating methodology required for issuance or renewal of plans -- Geographic rating areas -- Exemption -- Permitted deviation from index community rates.
304.17A-130	Risk adjustment process -- Authority for administrative regulations.
304.17A-135	Coverage for treatment of breast cancer.
304.17A-140	Coverage applicable to children to include legally-adopted children.
304.17A-145	Maternity coverage to include specified amounts of inpatient care for mothers and newly-born children -- Exemption.
304.17A-160	Standard health benefit plans -- Written agreement required before provider may be represented as participating.

Section 45. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth and premium rates have increased, making coverage less affordable for some Kentuckians, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 to **HB 555** is as follows:

On page 66, after line 9, by inserting:

"Section 44. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1995, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;~~[and]~~

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code***; and***

(j) Exclude for taxable years beginning after December 31, 1997, to the extent not already excluded from gross income, any amounts paid during the taxable year for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto

Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections."; and

On page 66, line 10, by deleting "44" and inserting "45"; and

On page 67, line 7, by deleting "45" and inserting "46".

The Committee Amendment No. 2 to **HB 555** is as follows:

On page 66, after line 9, by inserting:

"SECTION 44. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mandated health benefit" means any requirement that any health benefit plan provide a specified benefit, include a specified coverage, pay, indemnify, or reimburse for a specified medical care, or impose or regulate provisions concerning specified health care providers.

(2) On and after the effective date of this Act, in the General Assembly, a sponsor of a bill and any member proposing an amendment to a bill that contains a mandated health benefit shall submit to the standing committee to which the bill has been referred a financial impact statement on health insurance coverage rates before final consideration by the committee.

(3) Upon request of a standing committee of the General Assembly, the commissioner of the Department of Insurance shall review any financial impact statement filed with the committee and report the results of the review to the committee."; and

On page 66, line 10, by deleting "44" and inserting "45"; and

On page 67, line 7, by deleting "45" and inserting "46".

HB 786, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The following definitions shall apply to Sections 1 to 17 of this Act:

(1) "Interested person" means:

- *(a) Any affiliated person of a company;*
- *(b) Any member of the immediate family of any natural person who is an affiliated person of a company;*
- *(c) Any person or partner or employee of any person who at any time since the beginning of the last two (2) completed fiscal years of a company has acted as legal counsel for the company; or*
- *(d) Any natural person whom the commissioner by order shall have determined to be an interested person by reason of having had, at any time since the beginning of the last two (2) completed fiscal years of a company, a material business or professional relationship with a company or with the principal executive officer of the company.*

(2) "Intermediate holding company" means a holding company which is a subsidiary of a mutual insurance holding company, and which either directly or through a subsidiary intermediate holding company has one (1) or more subsidiary reorganized insurance companies of which a majority of the voting shares of the capital stock would otherwise have been required by Section 2 of this Act, to be at all times owned by the mutual insurance holding company. The commissioner shall have jurisdiction over an intermediate holding company as if it were a mutual insurance holding company.

(3) "Majority of the voting shares of the capital stock of the reorganized insurance company" means shares of the capital stock of the reorganized insurance company which carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the capital stock of the reorganized insurance company for the election of directors and on all other matters submitted to a vote of the shareholders of the reorganized insurance company. The ownership of a majority of the voting shares of the capital stock of the reorganized insurance company which are required by Section 2 of this Act, to be held by the mutual insurance holding company may be held by indirect ownership through one (1) or more intermediate holding companies in a corporate structure approved by the commissioner, provided, however, that indirect ownership through one (1) or more intermediate holding companies shall not result in the mutual insurance holding company owning less than the equivalent of a majority of the voting shares of the capital stock of the reorganized insurance company.

(4) "Mutual insurance holding company" means a holding company organized on the mutual plan and incorporated under the laws of Kentucky, resulting from the reorganization of a domestic mutual insurance company in accordance with Sections 2 and 3 of this Act, with one (1) or more stock insurance holding company subsidiaries or stock insurance company subsidiaries.

(5) "Plan of reorganization" means a plan to reorganize a domestic mutual insurance company by forming a mutual insurance holding company.

(6) "Stock offering" means any proposed sale, exchange, transfer or other change of ownership of stock or of securities convertible into or exchangeable or exercisable for stock; including, but not limited to, an initial public offering, private equity placement, or grants of stock options and other equity based compensation. For purposes of Sections 15, 16, and 17 of this Act, "stock offering" shall not mean:

(a) An offering of preferred stock which is not convertible or exchangeable into common stock and which has no ordinary voting rights; or

(b) A transfer of stock between a mutual insurance holding company, an insurance company subsidiary of a mutual holding company, and an insurance company subsidiary of an intermediate holding company subsidiary to a mutual holding company.

SECTION 2. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A domestic mutual insurance company, upon approval of the commissioner, may reorganize by forming an insurance holding company based upon a mutual plan and continuing the corporate existence of the reorganizing insurance company as a stock insurance company. The commissioner, after a public hearing conducted in accordance with KRS Chapter 13B, if satisfied that the interest of the policyholders are properly protected and that the plan or reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization, and may require as a condition of approval modification of the proposed plan of reorganization as the commissioner finds necessary for the protection of the policyholders' interests. A reorganization under this section is subject to KRS 304.37-120 (1), (2), (3), (6), and (7). The commissioner shall retain jurisdiction over a mutual insurance holding company organized under this section to assure that policyholder interests are protected.

(2) All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company.

(3) A domestic mutual insurance company, upon the approval of the commissioner, may reorganize by merging its policyholders' membership interests into a mutual insurance holding company formed under this section and continuing the corporate existence of the reorganizing insurance company as a stock insurance company subsidiary of the mutual insurance holding company. The commissioner, after a a public hearing conducted in accordance with KRS Chapter 13B, if satisfied that the interests of the policyholders are properly protected and that the merger is fair and equitable to the policyholders, may approve the proposed merger and may require as a condition of approval modification of the proposed merger as the commissioner finds necessary for the protection of the policyholders' interests. A merger under this section is subject to KRS 304.37-120(1), (2), (3), (6), and (7). The commissioner shall retain jurisdiction over a mutual insurance holding company organized under this section to assure that policyholder interests are protected.

(4) All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and the bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company. A merger of policyholders' membership interests in a mutual insurance company into a mutual insurance holding company shall be deemed to be a merger of the insurance companies under Subtitle 37 of KRS Chapter 304.

SECTION 3. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A foreign mutual insurance company, or a foreign nonprofit health service corporation, which if a domestic corporation would be organized under KRS 304 Subtitle 31, may reorganize upon the approval of the commissioner and in compliance with the requirement of any law or regulation which is applicable to the foreign mutual insurance company or foreign nonprofit health service corporation by merging its policyholders' or subscribers' membership interests into a mutual insurance holding company formed under Section 2 of this Act, and continuing the corporate existence of the reorganizing foreign mutual insurance company or reorganizing foreign health service corporation as a foreign stock insurance company subsidiary of the mutual insurance holding company. The commissioner, after a public hearing as provided in KRS 304.37-120(4)(b), may approve the proposed merger. A merger under this section is subject to KRS 304. 37-120(1), (2), (3), (6), and (7).

(2) The reorganizing foreign mutual insurance company or reorganizing foreign health service corporation may remain a foreign company or foreign corporation after the merger, and, may be admitted to do business in this state. A foreign mutual insurance company or foreign mutual health service corporation which is a party to the merger may at the same time redomesticate in this state by complying with the applicable requirements of this state and its state of domicile. The provisions of KRS 304.37-120 shall apply to a merger authorized under this section, except that a reference to policyholders is also deemed to include subscribers in the case of a health service corporation.

SECTION 4. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company organized under KRS Chapter 271B shall be incorporated under KRS Chapter 271B. The articles of incorporation and any amendments to the articles of the mutual insurance holding company shall be subject to approval of the commissioner and the Attorney General in the same manner as those of an insurance company.

SECTION 5. A NEW SECTION OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A mutual insurance holding company is deemed to be an insurer subject to Subtitle 33 of KRS Chapter 304 and shall automatically be a party to any proceeding under Subtitle 33 of KRS Chapter 304 involving an insurance company which as a result of a reorganization under Section 2 of this Act, is a subsidiary of the mutual insurance company. In any proceeding under Subtitle 33 of KRS Chapter 304 involving the reorganized insurance company, the assets of the mutual insurance holding company are deemed to be assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the recognized insurance company's policyholders. A mutual insurance holding company shall not dissolve or liquidate without the approval of the commissioner or as ordered by the court under Subtitle 33 of KRS Chapter 304.

SECTION 6. A NEW SECTION OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) KRS 304.24-380 is not applicable to a reorganization or merger under Sections 2 and 3 of this Act.

(2) KRS 304.24-380 is applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual insurance company organized under KRS 304 Subtitle 24 as if it were a mutual insurance company.

SECTION 7. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A membership interest in a domestic mutual insurance holding company shall not constitute a security as defined in KRS 292.310 (13).

SECTION 8. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The majority of the voting shares of the capital stock of the reorganized insurance company, which is required by Section 2 of this Act to be at all times owned by a mutual insurance holding company, shall not be conveyed, transferred, assigned, pledged, subjected to a security interest or lien, encumbered, or otherwise hypothecated or alienated by the mutual insurance holding company or intermediate holding company.

(2) Any conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, hypothecation, or alienation of, in, or on the majority of the voting shares of the reorganized insurance company, which is required by Section 2 of this Act to be at all times owned by a mutual insurance holding company, is in violation of Section 2 of this Act, and shall be void in inverse chronological order of the date of the conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, hypothecation, or alienation, as to the shares necessary to constitute a majority of the voting shares.

(3) The majority of the voting shares of the capital stock of the reorganized insurance company, which is required by Section 2 of this Act to be at all times owned by a mutual insurance holding company, shall not be subject to execution and levy as provided in KRS Chapter 426.

(4) The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two (2) or more reorganized insurance companies or two (2) or more intermediate holding companies which were subsidiaries of the same mutual insurance holding company are subject to the same requirements, restrictions, and limitations as provided in this section to which the shares of the merging or consolidating reorganized insurance companies or intermediate holding companies were subject by Section 2 of this Act, prior to the merger or consolidation.

SECTION 9. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other items required to be filed with the department under KRS Chapter 304, each mutual insurance holding company shall supply to the department of insurance, by March 1 of each year, an annual statement consisting of the following:

  (a) An income statement;

  (b) A balance sheet;

  (c) A cash flow statement;

  (d) Complete information on the status of any closed block of business formed as a part of a plan or reorganization;

  (e) An investment plan covering all assets; and

  (f) A statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or in any way encumber the assets of the mutual insurance holding company.

(2) The aggregate pledges and encumbrances of a mutual holding company's assets shall not affect more than forty-

nine percent (49%) of the company's stock in any subsidiary insurance holding company or subsidiary insurance company that resulted from a reorganization or merger.

(3) At least fifty percent (50%) of the generally accepted accounting practices net worth of a mutual insurance holding company shall be invested in insurance company subsidiaries.

SECTION 10. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No policyholder who is a member of a mutual insurance holding company shall receive because of a membership interest any payment of a policy credit, dividend, or other distribution unless the payment has been approved by the commissioner. The commissioner, after a public hearing, if satisfied the proposed payment is fair and equitable to policyholders who are members, may approve the proposed payment and may require as a condition of approval modification of the proposed payment as the commissioner finds necessary for the protection of policyholders.

SECTION 11. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The reorganizing or merging insurer shall file with the commissioner an application requesting approval of the proposed reorganization or merger. The application shall include the following:

(1) A Form A filing as described in KRS 304.37-120 and the administrative regulations promulgated thereunder;

(2) A plan or reorganization as described in Section 12 of this Act;

(3) A plan to obtain the approval of the policyholders in accordance with the applicant's articles of incorporation and bylaws. Policyholders must be provided with sufficient information to evaluate the merits of the proposed transaction, including a description of the purpose of the transaction, risks associated with the transaction, and alternatives considered. Policyholders shall be given not less than twenty (20) days notice of any vote on approval of the reorganization;

(4) A copy of the mutual insurance holding company's proposed articles of incorporation and bylaws specifying all membership rights;

(5) The names, addresses, and occupational information of all corporate officers and members of the initial mutual insurance holding company board of directors;

(6) Information sufficient to demonstrate that the financial condition of the applicant will not be diminished upon reorganization;

(7) A copy of the proposed articles of incorporation and bylaws for any insurance company subsidiary or intermediate holding company subsidiary;

(8) An index demonstrating where in the application information supplied in compliance with each of the foregoing provisions is found; and

(9) Any other information requested by the commissioner at any time during the proceedings.

SECTION 12. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The reorganizing or merging insurer shall file a plan of reorganization, approved by the affirmative vote of a majority of its board of directors, for review and approval by the commissioner. The plan shall provide the following:

(1) Establishing a mutual insurance holding company with at least one (1) stock insurance company subsidiary or one (1) wholly owned intermediate holding company with a stock insurance subsidiary, the shares of which shall be held exclusively by the wholly owned intermediate holding company;

(2) Protecting the immediate and long term interests of existing policyholders;

(3) Ensuring immediate membership in the mutual insurance holding company of all existing policyholders of the reorganizing domestic mutual insurance company;

(4) Providing for membership interest of future policyholders;

(5) Describing the number of members of the board of directors of the mutual insurance holding company required to be policyholders;

(6) Demonstrating that, in the event of proceedings under Subtitle 33 of KRS Chapter 304 involving a stock insurance company subsidiary of the mutual insurance holding company which resulted from the reorganization of a domestic mutual insurance company, the assets of the mutual insurance holding company will be available to satisfy the policyholder obligations of the stock insurance company;

(7) Describing how any accumulation or prospective accumulation of earnings by the mutual insurance holding company, which is or would be in excess of that determined by the board of directors of the mutual insurance holding company to be necessary, shall inure to the exclusive benefit of the policyholders of its insurance company

subsidiaries who are members;

(8) Describing the nature and content of the annual report and financial statement to be sent to each member;

(9) Describing the applicant's plan for a stock offering in accordance with the provisions of Section 15; and

(10) Describing other relevant matters the applicant deems appropriate.

SECTION 13. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The application and plan of reorganization submitted to the commissioner shall demonstrate that :

(1) Policyholder interests are properly preserved and protected;

(2) The plan is fair and equitable to policyholders; and

(3) The financial condition of the applicant will not be diminished.

SECTION 14. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A public hearing required by Sections 2 and 3 of this Act shall be conducted as directed in Subtitle 2 of KRS Chapter 304 and Chapter 13B;

(2) In addition to any notice required by KRS Chapter 304 and Chapter 13B, the department shall supplement any notice by newspaper publication and broadcast announcements, in accordance with KRS Chapter 424;

(3) The commissioner may retain at the applicant's expense any attorneys, actuaries, accountants, investment bankers, or other experts not otherwise a part of the commissioner's staff that may be necessary to assist the commissioner in reviewing the proposed application and plan of reorganization or merger;

(4) Upon receipt of the application and plan of reorganization or merger, the commissioner shall submit any application to the Attorney General for examination. The Attorney General shall have access to the commissioner's staff and all consultants retained by the commissioner for review of the application. The Attorney General may examine the application and plan or reorganization or merger for compliance with the standards in Section 12 of this Act. The Attorney General may submit written findings and a recommendation of approval, disapproval, or conditional approval of the application and plan or reorganization or merger to the commissioner. Written findings and recommendations shall be delivered to the commissioner no later than five (5) days prior to the public hearing required by Sections 2 and 3 of this Act, and shall be entered into the record at the hearing;

(5) The commissioner shall at all times retain jurisdiction over the mutual insurance holding company and its intermediate holding company subsidiaries with stock insurance company subsidiaries;

(6) Following the hearing required in Sections 2 and 3 of this Act, the commissioner shall, by order, approve, conditionally approve, or deny an application. The commissioner may require, as a condition of approval of the proposed reorganization, modification of the proposed plan or reorganization as the commissioner finds necessary. The applicant shall accept required modifications by filing appropriate amendments to the proposed plan of reorganization with the commissioner within thirty (30) days of the date of the order of the commissioner requiring modifications. If the applicant does not accept the required modifications by failing to file the required amendments to the proposed plan of reorganization within thirty (30) days, the proposed reorganization shall be deemed denied;

(7) An approval or conditional approval of a plan or reorganization shall expire if the reorganization is not completed within one hundred eighty (180) days unless the time period is extended by the commissioner upon a showing of good cause;

(8) The commissioner may revoke approval or conditional approval of an applicant's plan of reorganization if the commissioner finds the applicant has failed to comply with the plan of reorganization. The commissioner may compel completion of a plan or reorganization unless the plan is abandoned in its entirety. The commissioner shall retain jurisdiction over the applicant until a plan of reorganization has been completed;

(9) Upon completion of all elements of a plan of reorganization and any conditions placed on the reorganization by the commissioner, the applicant shall provide a notice of and documentation of completion to the commissioner; and

(10) Within twelve (12) months after the commissioner receives the notice specified in subsection (9) of this section, the commissioner shall examine the affairs, transactions, accounts, records, and assets of the mutual holding company, reorganized insurer, and its affiliated persons for compliance with the plan of reorganization and for protection of policyholder interests.

SECTION 15. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No stock offering by a mutual insurance holding company, an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance holding company, or an

insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company shall occur without the prior approval of the commissioner. The commissioner's approval may be obtained only through an application and hearing process.

(2) Every application for approval of a stock offering shall contain the following information:

(a) A description of the stock intended to be offered by the applicant, including a description of all shareholder rights;

(b) The total number of shares authorized to be issued, the estimated number of shares the applicant requests permission to offer, and the intended date or range of dates for the offering;

(c) A justification for a uniform planned offering price or a justification of the method by which the offering price will be determined;

(d) The name or names of any underwriter, syndicate member, or placement agent involved and, if known, the name or names of each entity, person, or group of persons to whom the stock offering is to be made who will control five percent (5%) or more of the total outstanding class of shares, and the manner in which the offer is to be tendered. If any entity or person is a corporation or business organization, the name of each member of its board of directors or equivalent management team shall be provided along with the name of each member of the board of directors of the offeror. Copies of any filings with the Securities and Exchange Commission disclosing intended acquisitions of the stock shall be included in the application;

(e) A description of stock subscription rights to be afforded members of the mutual insurance holding company in conjunction with the stock offering;

(f) A detailed description of all expenses to be incurred in conjunction with the stock offering;

(g) An explanation of how funds raised by the stock offering are to be used; and

(h) Any other information requested by the commissioner.

(3) No application regarding a planned stock offering shall be approved unless the plan contains provisions:

(a) Requiring a majority of the members of the board of directors of the mutual insurance holding company to be persons who are not interested persons of the mutual insurance holding company or of any subsidiary or affiliated person of the company. The commissioner may waive this requirement upon a showing of good cause based on clear and convincing evidence;

(b) For the mutual insurance holding company to adopt articles of incorporation prohibiting any waiver of dividends from stock subsidiaries except under conditions specified in its articles of incorporation and after approval of the waiver by the board of directors of the mutual insurance holding company and the commissioner;

(c) Requiring that the board of directors of any insurance company subsidiary of a mutual insurance holding company, any intermediate holding company subsidiary of a mutual holding company, or the insurance company subsidiary of an intermediate holding company shall include at least three (3) directors who are not interested persons of the mutual insurance holding company;

(d) Establishing, within the board of directors of the corporation offering stock, a pricing committee consisting exclusively of directors who are not interested persons who shall have sole responsibility for evaluating and approving the price of any stock offering;

(e) Establishing, within the board of directors of the mutual insurance holding company, any insurance company subsidiary of a mutual insurance holding company, any intermediate holding company subsidiary, and any insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company, an executive compensation committee consisting exclusively of directors who are not interested persons, who shall have sole responsibility for evaluating and approving compensation for directors, officers, and employees;

(f) Establishing that for any committee of the mutual insurance holding company, any insurance company subsidiary of a mutual insurance holding company, any intermediate holding company subsidiary, and any insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company, at least two-thirds of any committee having responsibility for making decisions affecting capital structure or mergers and acquisitions shall not be interested persons;

(g) Prohibiting officers, directors, and insiders of the mutual insurance holding company and its subsidiaries and affiliates from the purchase or beneficial ownership of any shares of the stock offering, or issuance of stock options to or for the benefit of the officers, directors, and insiders for a period of at least six (6) months following the first date the offering was publicly and regularly traded. This paragraph shall not be construed to limit the rights of officers, directors, and insiders from exercising subscription rights generally accorded

members of the mutual insurance holding company, except that, in accordance with any subscription rights, the officers, directors, and insiders of the mutual insurance holding company and its subsidiaries and affiliates may not purchase or own, in the aggregate, more than one percent (1%) of the stock offering for a period of at least six (6) months following the first date the offering was publicly and regularly traded; and

(h) For a period of two (2) years after the six (6) month period referred to in paragraph (g) of this section, the officers, directors, and insiders of the mutual insurance holding company and its subsidiaries and affiliates may not purchase or beneficially own, in the aggregate, more than five percent (5%) of the stock of the insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.

(4) An insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company may issue more than one (1) class of stock if:

(a) At all times a majority of the voting stock is held by the mutual insurance holding company or its subsidiary; and

(b) No class of common stock possesses greater dividend or other rights than the class held by the mutual insurance holding company or its subsidiary.

(5) The commissioner may hire, at the applicant's expense, attorneys, actuaries, accountants, investment bankers, and other experts as may reasonably be necessary to assist the commissioner in reviewing the application.

(6) The commissioner may, in the commissioner's discretion, hold a public hearing in accordance with KRS Chapter 13B, regarding any application for approval of a stock offering. Upon receipt of an application for approval of a stock offering which includes an initial offering of stock the commissioner shall hold a public hearing at which all interested parties may appear and present evidence and argument regarding the applicant's planned offering. The commissioner shall provide the applicant adequate notice of the hearing so that the applicant can provide notice of the hearing to members of the mutual insurance holding company, in a manner approved by the commissioner, not less than twenty (20) days prior to the hearing. Following the hearing, the commissioner may approve, conditionally approve, or deny the application. The commissioner may approve the plan if:

(a) The offering complies with these rules and other provisions of law;

(b) The method for establishing the price of a stock offering is consistent with generally accepted market or industry practices for establishing stock offering prices in similar transactions; and

(c) The plan and offering will not unfairly impact the interests of members of the mutual insurance holding company.

(7) Nothing in this section shall be deemed to prohibit the filing of a registration statement with the Securities and Exchange Commissioner prior to or concurrently with the giving of notice to members.

(a) Notwithstanding subsections (1) to (6) of this section, stock offerings which are not an initial stock offering, and which offer stock regularly traded on the New York Stock Exchange, the American Stock Exchange, or another exchange approved by the commissioner, or designated on the national association of securities dealers automated quotations-national market system may be sold if a mutual insurance holding company, an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company, or an insurance company subsidiary of an intermediate holding company intends to make a stock offering which would be governed by the provisions of Sections 1 to 17 of this Act. The entity shall deliver to the commissioner not less than thirty (30) days prior to the offering, a notice of the planned stock offering and information regarding the following:

1. The total number of shares intended to be offered;

2. The intended date of sale;

3. Evidence that the stock is regularly traded on one (1) of the public exchanges noted in subsection (a) of this section; and

4. A record of the trading pace and trading volume of the stock during the prior fifty-two (52) weeks.

(b) The commissioner shall be deemed to have approved the sale unless, within thirty (30) days following receipt of the notice, the commissioner issues an objection to the sale. If the commissioner issues an objection to the sale, the procedures set forth in subsection (2) of this section shall be followed to determine whether the commissioner approves the proposed sale;

(c) Approval of a stock offering obtained under either subsections (6) or (7) of this section shall expire ninety (90) days following the date of the approval or deemed approval, except as otherwise provided by the order of

the commissioner; and

(d) No prospectus, information, sales material, or sales presentation by the applicant, or by any representative, agent, or affiliate of the applicant shall contain a representation that the commissioner's approval of a stock offering constitutes an endorsement of the price, price range, or any other information relating to the stock.

SECTION 16. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The following practices are prohibited:

(1) Borrowing funds from the mutual insurance holding company, or its subsidiaries and affiliates, to finance the purchase of any portion of a stock offering;

(2) Payment of commissions, "special fees," and any other special payment or extraordinary compensation to officers, directors, interested persons, and affiliates, for arranging, promoting, aiding, or assisting in reorganization to a mutual insurance holding company, or for arranging, promoting, aiding, assisting, or participating in the structuring and placement of a stock offering; and

(3) Entering into an understanding or agreement transferring legal or beneficial ownership of stock to another person in avoidance of these rules.

SECTION 17. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) At no time shall the officers, directors, or insiders of the mutual insurance holding company and its subsidiaries and affiliates beneficially own, in the aggregate, more than eighteen percent (18%) of the voting stock of the insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.

(2) This subsection applies to directors of the mutual insurance holding company and its subsidiaries and affiliates. These directors shall not purchase or beneficially own, in the aggregate, more than three percent (3%) of the voting stock of an insurance company subsidiary of a mutual insurance company or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.

(3) No person may directly or indirectly offer to acquire or acquire, in any manner, beneficial ownership of more than fifteen percent (15%) of any class of voting securities of an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.

The Committee Substitute to **HB 786** is as follows:

AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The following definitions shall apply to Sections 1 to 17 of this Act:

(1) "Interested person" means:

(a) Any affiliated person of a company;

(b) Any member of the immediate family of any natural person who is an affiliated person of a company;

(c) Any person or partner or employee of any person who at any time since the beginning of the last two (2) completed fiscal years of a company has acted as legal counsel for the company; or

(d) Any natural person whom the commissioner by order shall have determined to be an interested person by reason of having had, at any time since the beginning of the last two (2) completed fiscal years of a company, a material business or professional relationship with a company or with the principal executive officer of the company.

(2) "Intermediate holding company" means a holding company which is a subsidiary of a mutual insurance holding company, and which either directly or through a subsidiary intermediate holding company has one (1) or more subsidiary reorganized insurance companies of which a majority of the voting shares of the capital stock would otherwise have been required by Section 2 of this Act, to be at all times owned by the mutual insurance holding company. The commissioner shall have jurisdiction over an intermediate holding company as if it were a mutual insurance holding company.

(3) "Majority of the voting shares of the capital stock of the reorganized insurance company" means shares of the

capital stock of the reorganized insurance company which carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the capital stock of the reorganized insurance company for the election of directors and on all other matters submitted to a vote of the shareholders of the reorganized insurance company. The ownership of a majority of the voting shares of the capital stock of the reorganized insurance company which are required by this Section 2 of this Act, to be held by the mutual insurance holding company may be held by indirect ownership through one (1) or more intermediate holding companies in a corporate structure approved by the commissioner, provided, however, that indirect ownership through one (1) or more intermediate holding companies shall not result in the mutual insurance holding company owning less than the equivalent of a majority of the voting shares of the capital stock of the reorganized insurance company.

(4) "Mutual insurance holding company" means a holding company organized on the mutual plan and incorporated under the laws of Kentucky, resulting from the reorganization of a domestic mutual insurance company in accordance with Sections 2 and 3 of this Act, with one (1) or more stock insurance holding company subsidiaries or stock insurance company subsidiaries.

(5) "Plan of reorganization" means a plan to reorganize a domestic mutual insurance company by forming a mutual insurance holding company.

(6) "Stock offering" means any proposed sale, exchange, transfer or other change of ownership of stock or of securities convertible into or exchangeable or exercisable for stock; including, but not limited to, an initial public offering, private equity placement, or grants of stock options and other equity based compensation. For purposes of Sections 15, 16, and 17 of this Act, "stock offering" shall not mean:

(a) An offering of preferred stock which is not convertible or exchangeable into common stock and which has no ordinary voting rights; or

(b) A transfer of stock between a mutual insurance holding company, an insurance company subsidiary of a mutual holding company, and an insurance company subsidiary of an intermediate holding company subsidiary to a mutual holding company.

SECTION 2. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A domestic mutual insurance company, upon approval of the commissioner, may reorganize by forming an insurance holding company based upon a mutual plan and continuing the corporate existence of the reorganizing insurance company as a stock insurance company. The commissioner, after a public hearing conducted in accordance with KRS Chapter 13B, if satisfied that the interest of the policyholders are properly protected and that the plan or reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization, and may require as a condition of approval modification of the proposed plan of reorganization as the commissioner finds necessary for the protection of the policyholders' interests. A reorganization under this section is subject to KRS 304.37-120 (1), (2), (3), (6), and (7). The commissioner shall retain jurisdiction over a mutual insurance holding company organized under this section to assure that policyholder interests are protected.

(2) All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company.

(3) A domestic mutual insurance company, upon the approval of the commissioner, may reorganize by merging its policyholders' membership interests into a mutual insurance holding company formed under this section and continuing the corporate existence of the reorganizing insurance company as a stock insurance company subsidiary of the mutual insurance holding company. The commissioner, after a a public hearing conducted in accordance with KRS Chapter 13B, if satisfied that the interests of the policyholders are properly protected and that the merger is fair and equitable to the policyholders, may approve the proposed merger and may require as a condition of approval modification of the proposed merger as the commissioner finds necessary for the protection of the policyholders' interests. A merger under this section is subject to KRS 304.37-120(1), (2), (3), (6), and (7). The commissioner shall retain jurisdiction over a mutual insurance holding company organized under this section to assure that policyholder interests are protected.

(4) A merger of policyholders' membership interests in a mutual insurance company into a mutual insurance holding company shall be deemed to be a merger of the insurance companies under Subtitle 37 of KRS Chapter 304.

SECTION 3. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A foreign mutual insurance company may reorganize upon the approval of the commissioner and in compliance with the requirement of any law or regulation which is applicable to the foreign mutual insurance company by merging its policyholders' membership interests into a mutual insurance holding company formed under Section 2

of this Act, and continuing the corporate existence of the reorganizing foreign mutual insurance company as a foreign stock insurance company subsidiary of the mutual insurance holding company. The commissioner, after a public hearing as provided in KRS 304.37-120(4)(b), may approve the proposed merger. A merger under this section is subject to KRS 304. 37-120(1), (2), (3), (6), and (7).

(2) The reorganizing foreign mutual insurance company may remain a foreign company after the merger, and, may be admitted to do business in this state. A foreign mutual insurance company which is a party to the merger may at the same time redomesticate in this state by complying with the applicable requirements of this state and its state of domicile. The provisions of KRS 304.37-120 shall apply to a merger authorized under this section.

SECTION 4. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company organized under KRS Chapter 271B shall be incorporated under KRS Chapter 271B. The articles of incorporation and any amendments to the articles of the mutual insurance holding company shall be subject to approval of the commissioner and the Attorney General in the same manner as those of an insurance company.

SECTION 5. A NEW SECTION OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A mutual insurance holding company is deemed to be an insurer subject to Subtitle 33 of KRS Chapter 304 and shall automatically be a party to any proceeding under Subtitle 33 of KRS Chapter 304 involving an insurance company which as a result of a reorganization under Section 2 of this Act, is a subsidiary of the mutual insurance company. In any proceeding under Subtitle 33 of KRS Chapter 304 involving the reorganized insurance company, the assets of the mutual insurance holding company are deemed to be assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the recognized insurance company's policyholders. A mutual insurance holding company shall not dissolve or liquidate without the approval of the commissioner or as ordered by the court under Subtitle 33 of KRS Chapter 304.

SECTION 6. A NEW SECTION OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) KRS 304.24-380 is not applicable to a reorganization or merger under Sections 2 and 3 of this Act.

(2) KRS 304.24-380 is applicable to demutualization of a mutual insurance holding company which resulted from the reorganization of a domestic mutual insurance company organized under KRS 304 Subtitle 24 as if it were a mutual insurance company.

SECTION 7. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A membership interest in a domestic mutual insurance holding company shall not constitute a security as defined in KRS 292.310 (13).

SECTION 8. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The majority of the voting shares of the capital stock of the reorganized insurance company, which is required by Section 2 of this Act to be at all times owned by a mutual insurance holding company, shall not be conveyed, transferred, assigned, pledged, subjected to a security interest or lien, encumbered, or otherwise hypothecated or alienated by the mutual insurance holding company or intermediate holding company.

(2) Any conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, hypothecation, or alienation of, in, or on the majority of the voting shares of the reorganized insurance company, which is required by Section 2 of this Act to be at all times owned by a mutual insurance holding company, is in violation of Section 2 of this Act, and shall be void in inverse chronological order of the date of the conveyance, transfer, assignment, pledge, security interest, lien, encumbrance, hypothecation, or alienation, as to the shares necessary to constitute a majority of the voting shares.

(3) The majority of the voting shares of the capital stock of the reorganized insurance company, which is required by Section 2 of this Act to be at all times owned by a mutual insurance holding company, shall not be subject to execution and levy as provided in KRS Chapter 426.

(4) The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two (2) or more reorganized insurance companies or two (2) or more intermediate holding companies which were subsidiaries of the same mutual insurance holding company are subject to the same requirements, restrictions, and limitations as provided in this section to which the shares of the merging or consolidating reorganized insurance companies or intermediate holding companies were subject by Section 2 of this Act, prior to the merger or consolidation.

SECTION 9. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other items required to be filed with the department under KRS Chapter 304, each mutual insurance holding company shall supply to the department of insurance, by March 1 of each year, an annual statement consisting of the following:

(a) An income statement;

(b) A balance sheet;

(c) A cash flow statement;

(d) Complete information on the status of any closed block of business formed as a part of a plan or reorganization;

(e) An investment plan covering all assets; and

(f) A statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or in any way encumber the assets of the mutual insurance holding company.

(2) The aggregate pledges and encumbrances of a mutual holding company's assets shall not affect more than forty-nine percent (49%) of the company's stock in any subsidiary insurance holding company or subsidiary insurance company that resulted from a reorganization or merger.

(3) At least fifty percent (50%) of the generally accepted accounting practices net worth of a mutual insurance holding company shall be invested in insurance company subsidiaries.

SECTION 10. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No policyholder who is a member of a mutual insurance holding company shall receive because of a membership interest any payment of a policy credit, dividend, or other distribution unless the payment has been approved by the commissioner. The commissioner, after a public hearing, if satisfied the proposed payment is fair and equitable to policyholders who are members, may approve the proposed payment and may require as a condition of approval modification of the proposed payment as the commissioner finds necessary for the protection of policyholders.

SECTION 11. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The reorganizing or merging insurer shall file with the commissioner an application requesting approval of the proposed reorganization or merger. The application shall include the following:

(1) A Form A filing as described in KRS 304.37-120 and the administrative regulations promulgated thereunder;

(2) A plan of reorganization as described in Section 12 of this Act;

(3) A plan to obtain the approval by a majority of eligible policyholders in accordance with the applicant's articles of incorporation and bylaws. Policyholders must be provided with sufficient information to evaluate the merits of the proposed transaction, including a description of the purpose of the transaction, risks associated with the transaction, and alternatives considered. Policyholders shall be given not less than twenty (20) days notice of any vote on approval of the reorganization;

(4) A copy of the mutual insurance holding company's proposed articles of incorporation and bylaws specifying all membership rights;

(5) The names, addresses, and occupational information of all corporate officers and members of the initial mutual insurance holding company board of directors;

(6) Information sufficient to demonstrate that the financial condition of the applicant will not be diminished upon reorganization;

(7) A copy of the proposed articles of incorporation and bylaws for any insurance company subsidiary or intermediate holding company subsidiary;

(8) An index demonstrating where in the application information supplied in compliance with each of the foregoing provisions is found; and

(9) Any other information requested by the commissioner at any time during the proceedings.

SECTION 12. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The reorganizing or merging insurer shall file a plan of reorganization, approved by the affirmative vote of a majority of its board of directors, for review and approval by the commissioner. The plan shall provide the following:

(1) Establishing a mutual insurance holding company with at least one (1) stock insurance company subsidiary or one (1) wholly owned intermediate holding company with a stock insurance subsidiary, the shares of which shall be held exclusively by the wholly owned intermediate holding company;

(2) Protecting the immediate and long term interests of existing policyholders;

(3) Ensuring immediate membership in the mutual insurance holding company of all existing policyholders of the reorganizing domestic mutual insurance company;

(4) Providing for membership interest of future policyholders;

(5) Describing the number of members of the board of directors of the mutual insurance holding company required to be policyholders;

(6) Demonstrating that, in the event of proceedings under Subtitle 33 of KRS Chapter 304 involving a stock insurance company subsidiary of the mutual insurance holding company which resulted from the reorganization of a domestic mutual insurance company, the assets of the mutual insurance holding company will be available to satisfy the policyholder obligations of the stock insurance company;

(7) Describing how any accumulation or prospective accumulation of earnings by the mutual insurance holding company, which is or would be in excess of that determined by the board of directors of the mutual insurance holding company to be necessary, shall inure to the exclusive benefit of the policyholders of its insurance company subsidiaries who are members;

(8) Describing the nature and content of the annual report and financial statement to be sent to each member;

(9) Describing the applicant's plan for a stock offering in accordance with the provisions of Section 15; and

(10) Describing other relevant matters the applicant deems appropriate.

SECTION 13. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The application and plan of reorganization submitted to the commissioner shall demonstrate that :

(1) Policyholder interests are properly preserved and protected;

(2) The plan is fair and equitable to policyholders; and

(3) The financial condition of the applicant will not be diminished.

SECTION 14. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A public hearing required by Sections 2 and 3 of this Act shall be conducted as directed in Subtitle 2 of KRS Chapter 304 and Chapter 13B;

(2) In addition to any notice required by KRS Chapter 304 and Chapter 13B, the department shall supplement any notice by newspaper publication and broadcast announcements, in accordance with KRS Chapter 424;

(3) The commissioner may retain at the applicant's expense any attorneys, actuaries, accountants, investment bankers, or other experts not otherwise a part of the commissioner's staff that may be necessary to assist the commissioner in reviewing the proposed application and plan of reorganization or merger;

(4) Upon receipt of the application and plan of reorganization or merger, the commissioner shall submit any application to the Attorney General for examination. The Attorney General shall have access to the commissioner's staff and all consultants retained by the commissioner for review of the application. The Attorney General may examine the application and plan or reorganization or merger for compliance with the standards in Section 12 of this Act. The Attorney General may submit written findings and a recommendation of approval, disapproval, or conditional approval of the application and plan or reorganization or merger to the commissioner. Written findings and recommendations shall be delivered to the commissioner no later than five (5) days prior to the public hearing required by Sections 2 and 3 of this Act, and shall be entered into the record at the hearing;

(5) The commissioner shall at all times retain jurisdiction over the mutual insurance holding company and its intermediate holding company subsidiaries with stock insurance company subsidiaries;

(6) Following the hearing required in Sections 2 and 3 of this Act, the commissioner shall, by order, approve, conditionally approve, or deny an application. The commissioner may require, as a condition of approval of the proposed reorganization, modification of the proposed plan or reorganization as the commissioner finds necessary. The applicant shall accept required modifications by filing appropriate amendments to the proposed plan of reorganization with the commissioner within thirty (30) days of the date of the order of the commissioner requiring modifications. If the applicant does not accept the required modifications by failing to file the required amendments to the proposed plan of reorganization within thirty (30) days, the proposed reorganization shall be deemed denied;

(7) An approval or conditional approval of a plan or reorganization shall expire if the reorganization is not completed within one hundred eighty (180) days unless the time period is extended by the commissioner upon a showing of good cause;

(8) The commissioner may revoke approval or conditional approval of an applicant's plan of reorganization if the commissioner finds the applicant has failed to comply with the plan of reorganization. The commissioner may compel completion of a plan or reorganization unless the plan is abandoned in its entirety. The commissioner shall retain jurisdiction over the applicant until a plan of reorganization has been completed;

(9) Upon completion of all elements of a plan of reorganization and any conditions placed on the reorganization by the commissioner, the applicant shall provide a notice of and documentation of completion to the commissioner; and

(10) Within twelve (12) months after the commissioner receives the notice specified in subsection (9) of this section, the commissioner shall examine the affairs, transactions, accounts, records, and assets of the mutual holding company, reorganized insurer, and its affiliated persons for compliance with the plan of reorganization and for protection of policyholder interests.

SECTION 15. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No stock offering by a mutual insurance holding company, an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance holding company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company shall occur without the prior approval of the commissioner. The commissioner's approval may be obtained only through an application and hearing process.

(2) Every application for approval of a stock offering shall contain the following information:

- *(a) A description of the stock intended to be offered by the applicant, including a description of all shareholder rights;*
- *(b) The total number of shares authorized to be issued, the estimated number of shares the applicant requests permission to offer, and the intended date or range of dates for the offering;*
- *(c) A justification for a uniform planned offering price or a justification of the method by which the offering price will be determined;*
- *(d) The name or names of any underwriter, syndicate member, or placement agent involved and, if known, the name or names of each entity, person, or group of persons to whom the stock offering is to be made who will control five percent (5%) or more of the total outstanding class of shares, and the manner in which the offer is to be tendered. If any entity or person is a corporation or business organization, the name of each member of its board of directors or equivalent management team shall be provided along with the name of each member of the board of directors of the offeror. Copies of any filings with the Securities and Exchange Commission disclosing intended acquisitions of the stock shall be included in the application;*
- *(e) A description of stock subscription rights to be afforded members of the mutual insurance holding company in conjunction with the stock offering;*
- *(f) A detailed description of all expenses to be incurred in conjunction with the stock offering;*
- *(g) An explanation of how funds raised by the stock offering are to be used; and*
- *(h) Any other information requested by the commissioner.*

(3) No application regarding a planned stock offering shall be approved unless the plan contains provisions;

- *(a) Requiring a majority of the members of the board of directors of the mutual insurance holding company to be persons who are not interested persons of the mutual insurance holding company or of any subsidiary or affiliated person of the company. The commissioner may waive this requirement upon a showing of good cause based on clear and convincing evidence;*
- *(b) For the mutual insurance holding company to adopt articles of incorporation prohibiting any waiver of dividends from stock subsidiaries except under conditions specified in its articles of incorporation and after approval of the waiver by the board of directors of the mutual insurance holding company and the commissioner;*
- *(c) Requiring that the board of directors of any insurance company subsidiary of a mutual insurance holding company, any intermediate holding company subsidiary of a mutual holding company, or the insurance company subsidiary of an intermediate holding company shall include at least three (3) directors who are not interested persons of the mutual insurance holding company;*
- *(d) Establishing, within the board of directors of the corporation offering stock, a pricing committee consisting exclusively of directors who are not interested persons who shall have sole responsibility for evaluating and approving the price of any stock offering;*
- *(e) Establishing, within the board of directors of the mutual insurance holding company, any insurance company subsidiary of a mutual insurance holding company, any intermediate holding company subsidiary, and any insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company, an executive compensation committee consisting exclusively of directors who are not interested persons, who shall have sole responsibility for evaluating and approving compensation for directors, officers, and employees;*
- *(f) Establishing that for any committee of the mutual insurance holding company, any insurance company subsidiary of a mutual insurance holding company, any intermediate holding company subsidiary, and any*

insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company, at least two-thirds of any committee having responsibility for making decisions affecting capital structure or mergers and acquisitions shall not be interested persons;

(g) Prohibiting officers, directors, and insiders of the mutual insurance holding company and its subsidiaries and affiliates from the purchase or beneficial ownership of any shares of the stock offering, or issuance of stock options to or for the benefit of the officers, directors, and insiders for a period of at least six (6) months following the first date the offering was publicly and regularly traded. This paragraph shall not be construed to limit the rights of officers, directors, and insiders from exercising subscription rights generally accorded members of the mutual insurance holding company, except that, in accordance with any subscription rights, the officers, directors, and insiders of the mutual insurance holding company and its subsidiaries and affiliates may not purchase or own, in the aggregate, more than one percent (1%) of the stock offering for a period of at least six (6) months following the first date the offering was publicly and regularly traded; and

(h) For a period of two (2) years after the six (6) month period referred to in paragraph (g) of this section, the officers, directors, and insiders of the mutual insurance holding company and its subsidiaries and affiliates may not purchase or beneficially own, in the aggregate, more than five percent (5%) of the stock of the insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.

(4) An insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company may issue more than one (1) class of stock if:

(a) At all times a majority of the voting stock is held by the mutual insurance holding company or its subsidiary; and

(b) No class of common stock possesses greater dividend or other rights than the class held by the mutual insurance holding company or its subsidiary.

(5) The commissioner shall hire, at the applicant's expense, attorneys, actuaries, accountants, investment bankers, and other experts as may reasonably be necessary to assist the commissioner in reviewing the application.

(6) The commissioner shall, in the commissioner's discretion, hold a public hearing in accordance with KRS Chapter 13B, regarding any application for approval of a stock offering. Upon receipt of an application for approval of a stock offering which includes an initial offering of stock the commissioner shall hold a public hearing at which all interested parties may appear and present evidence and argument regarding the applicant's planned offering. The commissioner shall provide the applicant adequate notice of the hearing so that the applicant can provide notice of the hearing to members of the mutual insurance holding company, in a manner approved by the commissioner, not less than twenty (20) days prior to the hearing. Following the hearing, the commissioner may approve, conditionally approve, or deny the application. The commissioner may approve the plan if:

(a) The offering complies with these rules and other provisions of law;

(b) The method for establishing the price of a stock offering is consistent with generally accepted market or industry practices for establishing stock offering prices in similar transactions; and

(c) The plan and offering will not unfairly impact the interests of members of the mutual insurance holding company.

(7) Nothing in this section shall be deemed to prohibit the filing of a registration statement with the Securities and Exchange Commissioner prior to or concurrently with the giving of notice to members.

(a) Notwithstanding subsections (1) to (6) of this section, a stock offering which is not an initial stock offering, and which offers stock regularly traded on the New York Stock Exchange, the American Stock Exchange, or another exchange approved by the commissioner, or designated on the national association of securities dealers automated quotations-national market system may be sold if a mutual insurance holding company, an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company, or an insurance company subsidiary of an intermediate holding company intends to make a stock offering which would be governed by the provisions of Sections 1 to 17 of this Act. The entity shall deliver to the commissioner not less than thirty (30) days prior to the offering, a notice of the planned stock offering and information regarding the following:

1. The total number of shares intended to be offered;

2. The intended date of sale;

3. Evidence that the stock is regularly traded on one (1) of the public exchanges noted in subsection (a) of this section; and

4. A record of the trading pace and trading volume of the stock during the prior fifty-two (52) weeks.

(b) The commissioner shall be deemed to have approved the sale unless, within thirty (30) days following receipt of the notice, the commissioner issues an objection to the sale. If the commissioner issues an objection to the sale, the procedures set forth in subsection (2) of this section shall be followed to determine whether the commissioner approves the proposed sale;

(c) Approval of a stock offering obtained under either subsection (6) or (7) of this section shall expire ninety (90) days following the date of the approval or deemed approval, except as otherwise provided by the order of the commissioner; and

(d) No prospectus, information, sales material, or sales presentation by the applicant, or by any representative, agent, or affiliate of the applicant shall contain a representation that the commissioner's approval of a stock offering constitutes an endorsement of the price, price range, or any other information relating to the stock.

SECTION 16. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The following practices are prohibited:

(1) Borrowing funds from the mutual insurance holding company, or its subsidiaries and affiliates, to finance the purchase of any portion of a stock offering;

(2) Payment of commissions, "special fees," and any other special payment or extraordinary compensation to officers, directors, interested persons, and affiliates, for arranging, promoting, aiding, or assisting in reorganization to a mutual insurance holding company, or for arranging, promoting, aiding, assisting, or participating in the structuring and placement of a stock offering; and

(3) Entering into an understanding or agreement transferring legal or beneficial ownership of stock to another person in avoidance of these rules.

SECTION 17. A NEW SECTION OF SUBTITLE 37 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) At no time shall the officers, directors, or insiders of the mutual insurance holding company and its subsidiaries and affiliates beneficially own, in the aggregate, more than eighteen percent (18%) of the voting stock of the insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.

(2) This subsection applies to directors of the mutual insurance holding company and its subsidiaries and affiliates. These directors shall not purchase or beneficially own, in the aggregate, more than three percent (3%) of the voting stock of an insurance company subsidiary of a mutual insurance company or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.

(3) No person may directly or indirectly offer to acquire or acquire, in any manner, beneficial ownership of more than fifteen percent (15%) of any class of voting securities of an insurance company subsidiary of a mutual insurance holding company, an intermediate holding company subsidiary of a mutual insurance company, or an insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.

HB 899, AN ACT relating to state-owned vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.055 is amended to read as follows:

(1) *Notwithstanding KRS 45A.045,*[~~Any state agency, as defined in KRS Chapter 12, may in its discretion, for the protection of the public and its employees, expend state funds to purchase policies of insurance of all kinds deemed advisable covering vehicles, including boats, owned by the state and operated by state employees when in the conduct of official business.~~] the commissioner of insurance[~~, upon recommendation of the secretary of the Finance and Administration Cabinet,~~] shall initiate and be responsible for the purchase of a blanket liability insurance policy *covering vehicles, including boats, owned by any state agency as defined in KRS Chapter 12 and operated by state employees when in the conduct of official business. The blanket liability insurance policy shall provide liability coverage of no less than one million dollars ($1,000,000) on each vehicle for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading, of the insured state vehicle. Any state agency, as listed in KRS 12.020, for the protection of the public and the agency's employees, may expend state funds to purchase vehicle liability insurance under the blanket liability insurance policy purchased by the commissioner of insurance.*[~~to cover the officers and employees of the several state agencies and shall determine, by administrative regulation, the policy limits that shall be applicable to the persons covered in each~~

~~such affected agency not to exceed the limit prescribed in KRS 44.070.]~~

(2) Nothing contained in this section shall be construed to be a waiver of sovereign immunity and claims against the Commonwealth, its agencies, officers, employees, or insurers may be asserted only in the manner set forth in KRS 44.070 to 44.160.

(3) Policies authorized by this section shall be purchased only from insurers authorized to do business in this state and shall be countersigned by a licensed resident agent.

(4) The commissioner of insurance is authorized to promulgate administrative regulations under KRS Chapter 13A to implement this section.

The Committee Substitute to **HB 899** is as follows:

AN ACT relating to state-owned vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.055 is amended to read as follows:

(1) ***(a) Notwithstanding KRS 45A.045,***~~[Any state agency, as defined in KRS Chapter 12, may in its discretion, for the protection of the public and its employees, expend state funds to purchase policies of insurance of all kinds deemed advisable covering vehicles, including boats, owned by the state and operated by state employees when in the conduct of official business.]~~ the commissioner of insurance, upon recommendation of the secretary of the Finance and Administration Cabinet, shall initiate and be responsible for the purchase of a blanket liability insurance ***contract***~~[policy]~~ ***covering licensed motor vehicles owned by any state agency as defined in KRS Chapter 12 and operated by state employees when in the conduct of official business. The blanket liability insurance policy shall provide liability coverage of no less than one million dollars ($1,000,000) on each licensed motor vehicle for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading, of the insured state vehicle. Any state agency, as listed in KRS 12.020, for the protection of the public and the agency's employees, shall expend state funds to purchase liability insurance on licensed motor vehicles under the blanket liability insurance contract purchased by the commissioner of insurance.***

(b) Any state agency may also purchase liability insurance under the blanket liability insurance contract purchased by the commissioner of insurance to cover nonlicensed mobile equipment. Liability coverage for nonlicensed mobile equipment shall be no less than three hundred thousand dollars ($300,000) per occurrence for all damages whether arising out of bodily injury or damage to property.

(c) Any state agency may also purchase a liability policy to provide coverage for boats owned by the state and operated by state employees when in the conduct of official business.~~[to cover the officers and employees of the several state agencies and shall determine, by administrative regulation, the policy limits that shall be applicable to the persons covered in each such affected agency not to exceed the limit prescribed in KRS 44.070.]~~

(2) Nothing contained in this section shall be construed to be a waiver of sovereign immunity and claims against the Commonwealth, its agencies, officers, employees, or insurers may be asserted only in the manner set forth in KRS 44.070 to 44.160.

(3) Policies authorized by this section shall be purchased only from insurers authorized to do business in this state and shall be countersigned by a licensed resident agent.

(4) The commissioner of insurance is authorized to promulgate administrative regulations under KRS Chapter 13A to implement this section.

SB 55, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-040 is amended to read as follows:

(1) Basic reparation benefits shall be paid without regard to fault.

(2) Basic reparation obligors and the assigned claims plan shall pay basic reparation benefits, under the terms and conditions stated in this subtitle, for loss from injury arising out of maintenance or use of a motor vehicle. This obligation exists without regard to immunity from liability or suit which might otherwise be applicable.

~~[(3) Notwithstanding any other provisions of this subtitle, no operator or passenger on a motorcycle is entitled to basic reparation benefits from any source for injuries arising out of the maintenance or use of such a motorcycle unless such reparation benefits have been purchased as optional coverage for the motorcycle or by the individual so injured.]~~

Section 2. KRS 304.39-100 is amended to read as follows:

(1) An insurance contract which purports to provide coverage for basic reparation benefits or is sold with representation that it provides security covering a motor vehicle has the legal effect of including all coverages required by this subtitle.

(2) An insurer authorized to transact or transacting business in this Commonwealth shall file with the commissioner of insurance as a condition of its continued transaction of business within this Commonwealth a form approved by the commissioner of insurance declaring that in any contract of liability insurance for injury, wherever issued, covering the ownership, maintenance or use of a motor vehicle[~~ other than motorcycles~~] while the vehicle is in this Commonwealth shall be deemed to provide the basic reparation benefits coverage and minimum security for tort liabilities required by this subtitle, except a contract which provides coverage only for liability in excess of required minimum tort liability coverage. Any nonadmitted insurer may file such form.

Section 3. KRS 304.39-110 is amended to read as follows:

(1) The requirement of security for payment of tort liabilities is fulfilled by providing:

(a) Either:

1. Split limits liability coverage of not less than twenty-five thousand dollars ($25,000) for all damages arising out of bodily injury sustained by any one (1) person, and not less than fifty thousand dollars ($50,000) for all damages arising out of bodily injury sustained by all persons injured as a result of any one (1) accident, plus liability coverage of not less than ten thousand dollars ($10,000) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle; or

2. Single limits liability coverage of not less than sixty thousand dollars ($60,000) for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading, of the secured vehicle;

(b) That the liability coverages apply to accidents during the contract period in a territorial area not less than the United States of America, its territories and possessions, and Canada; and

(c) Basic reparation benefits as defined in KRS 304.39-020(2).

(2) Subject to the provisions on approval of terms and forms, the requirement of security for payment of tort liabilities may be met by a contract the coverage of which is secondary or excess to other applicable valid and collectible liability insurance. To the extent the secondary or excess coverage applies to liability within the minimum security required by this subtitle it must be subject to conditions consistent with the system of required liability insurance established by this subtitle.

[~~(3) Security for a motorcycle is fulfilled by providing only the coverages set forth in subsections (1)(a) and (b) of this section.~~]

The House Committee Substitute to **SB 55** is as follows:

AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-040 is amended to read as follows:

(1) Basic reparation benefits shall be paid without regard to fault.

(2) Basic reparation obligors and the assigned claims plan shall pay basic reparation benefits, under the terms and conditions stated in this subtitle, for loss from injury arising out of maintenance or use of a motor vehicle. This obligation exists without regard to immunity from liability or suit which might otherwise be applicable.

(3) ***Every insurer writing liability insurance coverage for motorcycles in this Commonwealth shall make available for purchase as a part of every policy of insurance covering the ownership, use, and operation of motorcycles the option of basic reparations benefits, added reparations benefits, uninsured motorist, and underinsured motorist coverages.***

(4) Notwithstanding any other provisions of this subtitle, no operator or passenger on a motorcycle is entitled to basic reparation benefits from any source for injuries arising out of the maintenance or use of such a motorcycle unless such reparation benefits have been purchased as optional coverage for the motorcycle or by the individual so injured.

The Committee on Labor and Industry reported **HB 508,** with Committee Substitute attached thereto, **HB 534,** with Committee Amendment attached thereto, **HB 804,** with Committee Amendments attached thereto, and **SB 296** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 508, AN ACT relating to school administrators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.720 is amended to read as follows:

(1) The term "teacher" for the purpose of KRS 161.730 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than seven (7) school months within a school year; provided, however, that any board of education may grant a leave of absence for professional advancement with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until the teacher resigns or retires, or until it is terminated or suspended as provided in KRS 161.790 and 161.800.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS 161.730 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college or completion of a local district alternative certification training program.

(7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer appointed by a board of education under the authority of KRS 160.350 or any person authorized by law to perform the duties of that officer.

(8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employee, below the rank of superintendent, who devotes the majority of his employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, ***school psychologist,*** or school business administrator. The term "administrator" shall also include those assistant, associate, or deputy superintendents who do not fall within the definition of "superintendent" as set forth in subsection (7) of this section.

(9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.

The Committee Substitute to **HB 508** is as follows:

AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) ***(a)*** "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning.

(b) Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(c) Hazardous positions shall include the following positions of the Program for Occupational Safety and Health, Division of Occupational Safety and Health Compliance, Department of Workplace Standards, as provided in Section 2 of this Act:

1. Safety compliance officers;

2. Industrial hygiene compliance officers;

3. Safety compliance supervisors;

4. Industrial compliance supervisors;

5. Safety program manager;

6. Industrial hygiene program manager; and

7. Director of the Division of Occupational Safety and Health Compliance.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of

KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652.

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 2. KRS 338.041 is amended to read as follows:

(1) There is hereby created in the Department of Workplace Standards a Program for Occupational Safety and Health. This program shall consist of a Division of Occupational Safety and Health Compliance and a Division of Education and Training for Occupational Safety and Health. This program shall administer all matters pertaining to occupational safety and occupational health and shall be under the supervision of an occupational safety and health coordinator. The secretary of the Labor Cabinet shall appoint the occupational safety and health coordinator. ***The department shall make contributions required by Section 1 of this Act for participation in the hazardous duty retirement program for its employees in the following positions in the Division of Occupational Safety and Health Compliance: safety compliance officers and supervisors, industrial hygiene compliance officers and supervisors, safety program manager, industrial hygiene program manager, and director of the Division of Occupational Safety and Health Compliance.***

(2) The Department of Workplace Standards may require the assistance of other state agencies and may enter into agreements with other state agencies and political subdivisions of the Commonwealth for the administration of this chapter.

(3) The Department of Workplace Standards may enter into an agreement with the Cabinet for Human Resources and other appropriate departments or agencies to conduct research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems in the administration of this chapter.

Section 3. KRS 338.991 is amended to read as follows:

(1) Any employer who willfully or repeatedly violates the requirement of any section of this chapter, including any standard, regulation, or order promulgated pursuant to this chapter, may be assessed a civil penalty of up to seventy thousand dollars ($70,000) for each violation, but not less than five thousand dollars ($5,000) for each willful violation.

(2) Any employer who has received a citation for a serious violation of the requirements of any section of this chapter, including any standard, regulation, or order promulgated pursuant to this chapter, shall be assessed a civil penalty of up to seven thousand dollars ($7,000) for each violation.

(3) Any employer who has received a citation for a violation of the requirements of any section of this chapter, including any standard, regulation, or order promulgated pursuant to this chapter, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to seven thousand dollars ($7,000) for each violation.

(4) Any employer who fails to correct a violation for which a citation has been issued within the period permitted for its correction may be assessed a civil penalty of up to seven thousand dollars ($7,000) for each day during which such failure or violation continues.

(5) Any employer found to be in violation of subsection (3) of KRS 338.121 shall be assessed a civil penalty of up to ten thousand dollars ($10,000) for each violation.

(6) The review commission shall have the authority to modify all civil penalties and fines provided for in this chapter. The review commission may, at its discretion, suspend the time period allotted for correction of a violation during the review of an appeal from the violation in question.

(7) All civil penalties and fines collected under the provision of this chapter shall be ***deposited into a separate trust and agency account within the Labor Cabinet known as the "Hazardous Duty Retirement Fund." The fund shall be used exclusively by the Labor Cabinet to fund hazardous duty retirement pay for persons defined in subsection (1)(c) of Section 1 of this Act. The balance of the account shall lapse to the general fund at the end of each biennium***[~~paid into the general fund~~].

(8) Any employer or individual who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment for not more than six (6) months, or by both.

(9) Any person who gives advance notice of any investigation or inspection to be conducted under this chapter, without authority from the commissioner, shall, upon conviction, be punished by a fine of not more than one thousand dollars ($1,000), or by imprisonment for not more than six (6) months, or by both.

(10) Any employer or individual who willfully causes bodily harm to any authorized representative of the commissioner while attempting to conduct an investigation or inspection under the provisions of this chapter, shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment for not more than one (1) year, or by both.

(11) As used in this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one (1) or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

HB 534, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.390 is amended to read as follows:

There shall be deducted from the benefit rate determined for a worker in accordance with subsection (2) of KRS 341.380:

(1) Eighty percent (80%), adjusted to the nearest multiple of one dollar ($1), of the amount of wages earned by such worker during the week of unemployment with respect to which he claims benefits. For the purpose of this subsection, wages shall also include amounts earned by benefit claimants in self employment provided such earnings otherwise meet the definition of wages as contained in KRS 341.030;

(2) The amount of remuneration which the worker has received or is receiving with respect to such week of unemployment (adjusted to the nearest multiple of one dollar ($1) in the form of remuneration in lieu of notice; and

(3) (a) The amount of compensation payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment[~~ under a plan maintained or contributed to a chargeable or base period employer~~], shall be reduced (but not below zero (0)) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week; except that ***this reduction shall not be made if***[~~the secretary may provide for limitations on the amount of any such deduction to take into account contributions made by~~] the worker ***contributed to***[~~for~~] the pension, retirement or retired pay, annuity, or other similar periodic payment.

(b)[~~ No reduction shall be made under this section by reason of the receipt of a pension if the services performed by the worker during the base period (or remuneration received for such services) for such employer did not affect the worker's eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or other similar periodic payment. The conditions specified by this subsection shall not apply to pensions paid under the~~

~~Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law). Payments made under such acts shall be treated solely in the manner specified by paragraph (a) of this subsection.~~

~~(c)~~] If Public Law 94-566, Public Law 96-364 or the federal act which amends either for any cause shall become inoperative in its application, or stayed pendente lite, as to deductions of such compensation, then, subsection (3) of this section, by virtue of that fact, shall likewise and to the same extent, become inoperative as to such deductions.

The Committee Amendment No. 1 to **HB 534** is as follows:

On page 1, line 15, by removing the opening bracket and the strikethroughs; and

On page 1, line 16, by removing the strikethroughs and the closing bracket; and

On page 1, line 16, after the word "to" by inserting the word "***by***".

HB 804, AN ACT relating to electrical services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

(1) Effective November 1, 1999, any person who engages in electrical work or electrical contracting or works as a master electrician or electrical contractor shall:

(a) Hold a valid and effective electrical contractor's license issued by the department under the provisions of KRS 227.450 to 227.500;

(b) Hold a valid and effective master electrician's license issued by the department under the provisions of KRS 227.450 to 227.500;

(c) Hold a valid and effective journeyman electrician's license issued by the department under the provisions of KRS 227.450 to 227.500;

(d) Be a registered apprentice electrician who works under the direct supervision of a licensed contractor, master electrician, or journeyman electrician; or

(e) Be a trainer who works under the direct supervision of a licensed journeyman electrician or a master electrician in the absence of registered apprentice electrician. However, the total number of apprentices and trainees, combined, shall not exceed the number established in administrative regulations promulgated by the Department of Labor.

(2) Nothing in KRS 227.450 to 227.500 shall be construed to require that a full-time maintenance worker or maintenance engineer performing routine electrical work in conjunction with his or her employment be licensed.

(3) Nothing in subsection (1) of this section shall be construed to require persons making installations exempt by KRS 227.460 to be licensed or to work for a licensed person.

(4) Nothing in KRS 227.450 to 227.500 shall preclude the use of unlicensed nonresident journeyman electricians in temporary, emergency, or industrial shutdown situations. These unlicensed, nonresident, journeyman electricians shall be required to apply for a journeyman electrician's license or a master electrician's license after they are employed and engaged in electrical work in the Commonwealth of Kentucky for a period of two (2) weeks. The license shall be obtained by the temporary, unlicensed, nonresident journeyman electrician within ninety (90) days of securing employment.

(5) Nothing in KRS 227.450 to 227.500 shall apply to an owner, a tenant, or a farmer installing or repairing electrical wiring on his or her farm premises or personal residence or prevent the owner, tenant, or farmer from engaging other licensees to assist in the repairs or installation.

(6) It is the expressed intent of the Kentucky General Assembly that existing local electrical licensing programs established by local ordinances prior to the effective date of this Act should be able to continue, if the programs conform to the requirements established in KRS 227.450 to 227.500 and the administrative regulations promulgated by the department in accordance with those sections.

Section 2. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any individual, partnership***,*** or corporation that engages in***, offers to engage in, advertises or otherwise represents that he or she is qualified to engage in the designing, planning, installing, and contracting of, or assumes responsible charge for the installation, alteration, or repair of any electrical wiring used for the***

purpose of furnishing heat, light, or power and data communication low voltage wiring as specified under the National Electrical Code, and who employs others to engage in these practices, at least one (1) of whom shall be a master electrician in the contractor's full-time employ if the contractor has not passed an electrical contractor's examination or is not licensed under Section 6 of this Act~~[the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power]~~;

(2) "Electrician" means any person who is employed by an electrical contractor and ***who engages in the work of a master electrician or a journeyman electrician, or*** is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power;

(3) "Electrical" pertains to the installation***, alteration, or repair*** of wires and conduits ***used*** for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith***, within the property lines of any given property, beginning at the secondary side of the transformer. This definition shall include any work conducted by an electrical utility company not exempt by KRS 227.460 or the National Electrical Code, except line work consisting of poles and towers, including wires or cables and other apparatus supported therefrom***;

(4) "Electrical inspector" means any person certified by the commissioner of housing, buildings and construction pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the National Electrical Code incorporated in the Uniform State Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of the Commonwealth of Kentucky;~~[and]~~

(5) "Department" means the Department of Housing, Buildings and Construction***;***

(6) "Apprentice electrician" means a person, including a trainee, who is in the process of learning the trade of electrical work, who assists and is under the personal supervision of a licensed master electrician or journeyman electrician;

(7) "Authorized local licensing program" means any city, county, or urban-county government electrician and electrical contractor licensing program complying with Section 4 of this Act established by local ordinance for the purpose of qualifying electrical workers prior to July 15, 1998, or any other electrician or electrical contractor licensing program meeting the requirements of KRS 227.450 to 227.500;

(8) "Journeyman electrician" means a person licensed to engage in electrical work under the supervision of a master electrician or electrical contractor and to assume supervision of and responsibility for apprentice electricians engaged in electrical work;

(9) "Master electrician" means a person licensed to engage in electrical work and to assume supervision and responsibility for journeyman and apprentice electricians engaged in electrical work;

(10) "Maintenance person or maintenance engineer" means a person who is a regular, bona fide, full-time employee or agent of a property owner, property lessor, property management company, or firm that is not in the electrical business but has jurisdiction of the property where the routine maintenance of electrical systems is being performed, if the maintenance does not include the repair of electrical systems;

(11) "Routine maintenance of electrical systems" means the routine and periodic servicing of electrical systems, including cleaning, inspecting, and making adjustments to insure the proper operation, and the removal or replacement of component parts. "Routine maintenance of electrical systems" shall not include the installation of complete electrical systems; and

(12) "Registered" applies to a person who is part of a program established by the Kentucky Labor Cabinet or Bureau of Apprenticeship Training as establishing and maintaining a verifiable roster for recording the work relationships between apprentice electricians and licensed electricians.

Section 3. KRS 227.4901 is amended to read as follows:

(1) The Department of Housing, Buildings and Construction, with advice from the Electrical Advisory Committee, shall select and approve ***examinations***~~[an examination]~~ to be used in determining the competency of ***electricians and*** electrical contractors for ***state***~~[local]~~ licensure***, and until July 1, 1999, for local licensure***. The examination selected and approved shall be a ***state or*** nationally recognized examination***, or if an applicant for a journeyman license so chooses, an equivalent industry certificate that has***~~[which has]~~ been determined through proper validation techniques to measure successfully an individual's competency to perform ***the applicable*** electrical~~[contracting]~~ work.

(2) ***Except as provided in subsection (1) of this section, a person who desires to be a journeyman electrician, a master electrician, or an electrical contractor shall take and pass an examination that corresponds with the level of licensure for which the person applies. Any person***~~[An electrical contractor]~~ who achieves a passing score on the ***appropriate,*** approved~~[electrical contractor]~~ examination administered ***through***~~[by]~~ the department, upon ***application and the*** payment of the requisite fees, shall be issued ***the corresponding***~~[an electrical contractor]~~ examination certificate.~~[This certificate shall be accepted by any city or county requiring an electrical contractor license, as evidence of satisfactory completion of the electrical contractor examination requirement contained in KRS 227.490.]~~

(3) ***A journeyman electrician, master electrician, or*** an electrical contractor who is licensed by a city***,***[~~ or~~] county***, or other state*** and has successfully passed ***the respective***[~~an electrical contractor~~] examination at ***that***[~~the local~~] level, ***or if a journeyman electrician has been issued an equivalent industry certificate in lieu of taking the examination,*** may apply to the department for an ***appropriate electrician's examination certificate or*** electrical contractor examination certificate. If the examination taken was the department-approved examination, the department shall issue a certificate upon verification of a passing score and the payment of the certificate fee. If the examination taken was not the department-approved examination, the department shall evaluate the examination taken and shall issue a certificate only if ***the department determines***[~~a determination is made~~] that the examination taken is substantially equivalent to the department-approved examination.

(4) The department shall offer ***or may contract with recognized testing agencies to administer*** the ***examinations***[~~electrical contractor examination~~] on ~~a~~ regularly scheduled basis in Frankfort ***and in other selected regions of the state,***[~~. The department shall also offer the examination in other parts of the state~~] a minimum of two (2) times per year ***in each region***. ***The costs of the examination shall not exceed the fee charged by the testing service.***

(5) The department shall ***maintain records of***[~~collect and compile reports on~~] disciplinary actions against licensed ***journeymen electricians, master electricians, and*** electrical contractors submitted by cities and counties. The department shall ***notify local building officials and electrical inspectors of any suspension or revocation of a state license***[~~publish a quarterly report of these actions and transmit a copy to each city or county that licenses electrical contractors. The department shall also make this information available to cities or counties upon request~~].

(6) The department ***shall***[~~may~~] promulgate reasonable administrative regulations necessary for the administration ***and enforcement*** of ***KRS 227.450 to 227.500***[~~this section~~], including the establishment of reasonable fees.

(7) Effective July 1, 1999, upon proof that the applicant meets the requirements of Section 9 of this Act and has passed the examination, where applicable, the department or an authorized local licensing program approved by the department shall issue a state photo ID license. All registered apprentices shall be issued a registration card by the Department of Labor. The fees for state licenses issued by the authorized local licensing programs under KRS 227.450 to 227.500 may be retained by the local government and shall be used solely for the administration and enforcement of KRS 227.450 to 227.500 and other laws governing the enforcement of the National Electrical Code.

Section 4. KRS 227.490 is amended to read as follows:

(1) ***Effective July 1, 1999, in order to engage in electrical work or electrical contracting, a person shall hold a state license issued by either the department or by an authorized local licensing program approved by the department. The department shall promulgate administrative regulations establishing licensing requirements for electrical contractors and journeyman and master electricians, which shall include, but not be limited to:***

- ***(a) Satisfactory completion of a department-approved examination for electricians;***
- ***(b) Proof of four (4) years of prior electrical trade experience before taking the examination to obtain a journeyman electrician's license;***
- ***(c) Proof of two (2) years of journeymen experience to obtain a master electrician's license;***
- ***(d) The subject areas to be tested and the process by which a license may be issued, renewed, or reinstated;***
- ***(e) Procedures for allowing licenses to be placed in an inactive state for a reasonable period of time;***
- ***(f) Provisions for exempting the installation of certain specialized equipment at on-site disconnects;***
- ***(g) The method and process by which local governments may administer and enforce KRS 227.450 to 227.500 if the locality seeks to administer the state program within its boundaries as an agent of the department; and***
- ***(h) Beginning on July 1, 2000, as a condition for license renewal for July 1, 2001 and each year thereafter, each licensee shall complete a minimum of six (6) hours of continuing education provided by the National Electronic Contractor's Association; the Association of Building Contractors; the International Brotherhood of Electrical Workers; the Independent Electrical Contractors Association; the Commonwealth of Kentucky Department of Housing, Buildings and Construction; or some other provider of instruction approved by the department.***

(2) The department shall promulgate administrative regulations setting out initial licensing fees, which shall vary depending on the type of license held. The initial licensing fee shall not exceed fifty dollars ($50) for journeyman electricians and one hundred fifty dollars ($150) for master electricians or electrical contractors. All fees and fines paid to the department shall be deposited in a trust and agency account in the State Treasury and shall not revert to the general fund. The funds shall be used solely for the administration and enforcement of KRS 227.450 to 227.500 and related electrical code enforcement.

(3) Effective July 1, 1999, anyone holding a currently valid license as a journeyman electrician, a master electrician, or an electrical contractor issued by a city or county in the Commonwealth, or holding an examination certificate issued by the state may apply to be licensed at the state level by submitting an application, paying the required initial

fee, and having his or her existing license or certificate converted to a state license or by obtaining a new state license from the department or from an authorized local licensing program. The applicants shall be licensed after submitting the appropriate examination certificate or verification of licensure, and meeting the requirements of Section 9 of this Act, if applicable. The state license shall entitle the holder to do business anywhere in the state without further licensing requirements, except for those requirements relating to local occupational taxes.

(4) ***From the effective date of this Act until July 1, 1999,*** a city or county may require all electrical contractors and electricians, except those possessing a current valid license from that city or county, to be examined by an examining board before being issued a license to engage in their occupation. An electrician desiring to become a contractor may apply for an examination to the examining board. A city or county may require all electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation within the jurisdiction of the city or county.

(5) ***The standards established by the city or county shall include passing an appropriate, department-approved examination.***

(6)[~~(2)~~] A city or county that requires the examination of electrical contractors ***or electricians*** for licensure[~~,~~] shall administer the ***appropriate level of***[~~electrical contractor~~] examination certificate as evidence selected and approved by the Department of Housing, Buildings and Construction as required in KRS 227.4901.

(7)[~~(3)~~] A city or county that requires the examination of ***electricians or*** electrical contractors for licensure[~~,~~] shall accept ***the appropriate journeyman electrician, master electrician, or***[~~an~~] electrical contractor examination certificate as evidence that an applicant for[~~ -- an~~] ***a journeyman electrician's, master electrician's, or*** electrical ***contractor's***[~~contractor~~] license has successfully met the examination requirement of subsection ***(4)***[~~(1)~~] of this section.

(8)[~~(4)~~] (a) The examining board shall be composed of seven (7) members appointed by the city or the county and in[~~ such~~] instances as where the provisions of KRS 227.450 to 227.500 are accomplished jointly as provided for in KRS 227.470, the appointment shall be by joint resolution of the governing body of each local government ***that***[~~which~~] is ***a*** party to the cooperative agreement. The cooperative agreement shall conform to the provisions of KRS Chapter 65. The board shall consist of two (2) fire department officials, two (2) consulting electrical engineers or architects, two (2) electrical contractors, and one (1) utility company official. No appointee shall serve more than two (2) consecutive terms. A term shall be three (3) years.

(b) If the provisions of KRS 227.470(2) apply, appointment of the members of the examining board shall be by the fiscal courts of the participating counties, provided that each county will name a fire department official from ***its***[~~their~~] respective counties and an electrical contractor from ***its***[~~their~~] respective counties. ***If***[~~In the event that~~] there are more than two (2) counties who have authorized a cooperative agreement pursuant to KRS 227.470(2), the examining board shall be increased from seven (7) to nine (9) members if three (3) counties participate, to eleven (11) members if four (4) counties participate, and will continue to increase by two (2) members for each additional county that participates. The additional two (2) members for each county shall be a fire department official and an electrical contractor from each respective county.

(9)[~~(5)~~] The members of the examining board shall serve without salary.

(10)[~~(6)~~] In order to administer KRS 227.450 to 227.500, the board may issue, renew, suspend, and revoke licenses; conduct and make regulations for conducting examinations of applicants; ***and*** govern the method and time of making application for examination and the time within which applicant shall be examined after application has been filed. It may ***promulgate***[~~adopt~~] any other reasonable ***administrative*** regulations to administer KRS 227.450 to 227.500.

(11)[~~(7)~~] Electrical contractors***, master electricians,*** and ***journeyman*** electricians ***shall***[~~may~~] be required to pay a reasonable fee before issuance or renewal of a license to them.

(12)[~~(8)~~] A city or county shall report to the department within thirty (30) days of the action taken, any suspension, revocation, or any other disciplinary action taken against ***any licensed electrician or***[~~a~~] licensed electrical contractor. The city or county shall also provide any other information on disciplinary actions requested by the department.

(13) ***Subsections (4) to (12) of this section shall expire, effective July 1, 1999, at which time all licensing shall be performed by the department, except that authorized local electrical licensing programs may act as agents for the state for the purpose of administering the licensing program established in KRS 227.450 to 227.500 and may maintain the fees in accordance with administrative regulations promulgated by the department.***

SECTION 5. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

(1) ***Every master and journeyman electrician's and electrical contractor's license issued by the department shall expire on June 30 of each year following the date of issuance unless it is earlier suspended, canceled, or revoked; except that any state license issued prior to July 1, 1999, shall not expire until June 30, 2000.***

(2) ***(a)*** ***On or before June 1 of each year, the department shall send license renewal notices to all licensed master electricians, journeyman electricians, and electrical contractors in the state. The notice shall be sent to the last known address of the electricians and electrical contractors and shall advise them that the annual fee is***

due not later than July 1. It shall be the responsibility of each licensee to notify the department, in writing, of any change of address.

(b) The department shall promulgate administrative regulations setting out annual renewal fees, which shall vary depending on the type of license held. The annual license renewal fee shall not exceed twenty-five dollars ($25) for journeyman electricians and one hundred dollars ($100) for master electricians and contractors and shall not exceed the department's administrative cost of administering and enforcing KRS 227.450 to 227.500.

(3) Any master electrician, journeyman electrician, or electrical contractor who fails to renew a license on or before July 1 of each year may have the license reinstated upon payment of the prescribed license renewal fee set out in subsection (2) (b) of this section and the required initial license fee as set out in subsection (2) of Section 4 of this Act, if the licensee does so by July 31 of that year.

(4) If a license is not reinstated by September 30 of the year in which it expired, the former license holder shall reapply for licensure and meet all requirements set out in subsection (1) of Section 4 of this Act, including taking or retaking the required examination if it has been more than two (2) years since the license has expired, or alternatively, paying a penalty for failure to timely renew as determined by the department upon recommendation of the electrical advisory committee.

SECTION 6. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

(1) For applications filed prior to December 31, 1999, by persons who do not qualify for automatic licensure as set forth in subsection (3) of Section 4 of this Act by having previously obtained a valid local license or state examination certificate, the department shall approve contractors and electricians for licensure based on experience, in lieu of the examination certificate, upon proper documentation that the applicant has been actively engaged and lawfully established in the electrical trade, as follows:

(a) For an applicant to be licensed as an electrical contractor, verifiable current experience as an electrical contractor prior to July 1, 1998, until the date of application; and

(b) For an applicant to be licensed as a journeyman electrician, a minimum of four (4) years of verifiable experience as an electrician under the supervision of a licensed or otherwise lawfully established electrical contractor.

(2) Beginning July 1, 1999, there shall be no licensing of electricians or electrical contractors other than the issuance of state licenses, except as allowed under administrative regulations promulgated by the department for authorized local electrical licensing programs implementing the state program.

SECTION 7. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 1999, the department, after affording the affected party an opportunity to be heard, may revoke, suspend, place on probation, or restrict the license or certificate of any licensee or certificate holder; refuse to issue or fail to renew the state license; reprimand a licensee or certificate holder; or censure the license or certificate of any journeyman electrician, master electrician, or electrical contractor; and may impose fines between twenty-five dollars ($25) and two hundred fifty dollars ($250) per day, for any of the following reasons if the licensee has:

(1) Knowingly and willfully violated the provisions of the electrical code, this chapter, or administrative regulations promulgated under this chapter;

(2) Practiced fraud or deception in applying for or obtaining a license;

(3) Performed services as a licensed electrical contractor, master electrician, or journeyman electrician incompetently or negligently in violation of applicable codes and standards of practice;

(4) Permitted a person not licensed by this chapter to use his or her license to obtain or perform electrical work;

(5) Acted in an unprofessional dishonorable manner that is likely to deceive or defraud the public;

(6) Willfully or deliberately disregarded any disciplinary actions taken by the board, or of a city, county, or urban-county government; or

(7) Been convicted of a felony or of any crime an element of which is dishonesty or fraud, under the laws of any state or of the United States.

SECTION 8. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 1999, any person for whom licensure is required, who is not licensed as required by KRS 227.450 to 227.500 and who engages in electrical work or electrical contracting shall be guilty of a Class A misdemeanor. Each day shall be a separate offense.

Section 9. KRS 227.480 is amended to read as follows:

(1) A city or county shall, according to the Uniform State Building Code as it pertains to the plan review and inspection

responsibilities of local governments, require any person to obtain permits before commencing construction, alteration***,*** or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property. ***After July 1, 1999, no permit shall be issued except in the name of the licensed electrical contractor.***

(2) ***Until July 1, 1999,*** a city***,***[~~ or~~] county***,*** or the state shall not issue a permit unless the applicant submits, through an affidavit or other means prescribed by the city, county***,*** or state, that he ***or she*** has complied with workers' compensation and unemployment insurance laws and regulations. The city or county shall also ***until July 1, 1999,*** require the applicant to submit proof in the manner prescribed above that he ***or she*** has obtained a general liability insurance policy of not less than two hundred fifty thousand dollars ($250,000) which is in effect. Failure to comply with this requirement shall be grounds for suspension or revocation of[~~ an~~] ***a journeyman electrician's, master electrician's or*** electrical ***contractor's***[~~contractor~~] license. ***After July 1, 1999, proof of workers' compensation unemployment insurance and general liability insurance in the minimum amount of two hundred fifty thousand dollars ($250,000) shall be one (1) of the requirements for doing business as an electrical contractor and obtaining the required state license.*** However, the provisions of this subsection shall not apply to a homeowner ***who is also a resident of the home*** or ***to a*** farmer who does construction, alteration or repairs of any electrical wiring on ***his or her***[~~their~~] own ***home or farm*** premises.

(3) A city or county ***shall***[~~may~~]***, by employment or contract,*** appoint and fix the compensation of city or county electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements***, not in conflict with state law,*** for the conduct of electrical inspections within its boundaries. All electrical inspectors ***shall***[~~must~~] be certified under KRS 227.489.

(4) Reasonable standards for the construction, alteration***,*** and repair of any electrical wiring shall be those adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the National ***Electrical***[~~Electric~~] Code. These standards shall be used by the electrical inspector in making his inspections.

SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Every person licensed by KRS 227.450 to 227.500 shall carry upon his or her person or have readily available at the location he or she is working the photo ID license card issued and the licensee shall present the card for viewing upon demand by any certified electrical inspector.

(2) Any vehicle used for transportation of materials or equipment for performance of any activity for which a license is required by KRS 227.450 to 227.500 shall be conspicuously and clearly marked with the company name or the individual's name if no company exists and the license number.

(3) If the holder of a master electrician's license, who is the representative by which the licensed electrical contractor company qualifies, ceases to be part of the business utilizing that license, the master electrician shall immediately report the disassociation to the department or to the authorized local licensing program approved by the department. The master electrician shall be responsible for all work done under the master's license to the point at which the department or authorized local licensing program is notified.

(4) If the holder of any electrical license ceases to be part of the business utilizing that license, all rights of the firm or corporation or employees to perform work under that license shall cease and the firm or corporation shall be required to employ a licensed person prior to continuance of the business activity or within thirty (30) days, whichever comes first.

(5) No licensed master electrician shall represent more than one (1) licensed electrical contractor.

The Committee Amendment No. 1 to **HB 804** is as follows:

On page 1, line 15, delete "***trainer***" and insert in lieu thereof "***trainee***"; and

On page 1, line 19, delete "***Department of Labor***" and insert in lieu thereof "***Labor Cabinet***"; and

On page 6, line 27, delete "***Department of Labor***" and insert in lieu thereof "***Labor Cabinet***"; and

On page 8, line 2, delete "***Electronic***" and insert in lieu thereof "***Electrical***"; and

On page 8, line 3, delete "***Association of Building***" and insert in lieu thereof "***Associated Builders and***".

The Committee Amendment No. 2 to **HB 804** is as follows:

On page 1, line 24, after "***KRS 227.460***", by inserting the words "***, or installations by a retailer or its agent of a consumer product purchased at retail,***".

SB 296, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.270 is amended to read as follows:

(1) Except as otherwise provided in this section, each employer's contribution rate shall be three percent (3%). ***Effective for employers who become subject to this chapter on or after January 1, 1999, except as otherwise provided in this section, each employer's contribution rate shall be two and seven-tenths percent (2.7%).***

(2) ***Except as otherwise provided in this section,*** no subject employer's contribution rate shall be less than ***two and seven-tenths percent (2.7%)***[~~three percent (3%)~~], unless he has been an employer subject to the provisions of this chapter for twelve (12) consecutive calendar quarters ended as of the computation date. ***In any calendar year in which the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no subject employer who was assigned an entry rate of three percent (3.0%) under the provisions of subsection (1) of this section prior to January 1, 1999, shall have a contribution rate less than two and eight hundred fifty-seven thousandths percent (2.857%), unless subject to this chapter for the minimum time period specified above.***

(3) For the calendar year ***1999***[~~1982~~] and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out in subsection (4) of this section. For each calendar year, the secretary shall determine the rate schedule to be in effect based upon the "trust fund balance" as of December 31 of the preceding year. If such "trust fund balance":

(a) ***Equals or exceeds one and eighteen hundredths percent (1.18%) of the total wages paid in covered employment in the state during the state fiscal year ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy Rates" schedule of "Table A" shall be in effect.***

(b) Equals or exceeds three hundred fifty million dollars ($350,000,000) ***but is less than the amount required to effectuate the "Trust Fund Adequacy Rates" schedule as provided in paragraph (a) of this subsection***, the rates listed in "Schedule A" of "Table A" shall be in effect.

(c)[~~(b)~~]Equals or exceeds two hundred seventy-five million dollars ($275,000,000) but is less than three hundred fifty million dollars ($350,000,000), the rates listed in "Schedule B" of "Table A" shall be in effect.

(d)[~~(c)~~]Equals or exceeds two hundred fifty million dollars ($250,000,000) but is less than two hundred seventy-five million dollars ($275,000,000), the rates listed in "Schedule C" of "Table A" shall be in effect.

(e)[~~(d)~~]Equals or exceeds one hundred fifty million dollars ($150,000,000) but is less than two hundred fifty million dollars ($250,000,000), the rates listed in "Schedule D" of "Table A" shall be in effect.

(f)[~~(e)~~] Is less than one hundred fifty million dollars ($150,000,000), the rates listed in "Schedule E" of "Table A" shall be in effect.

(4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A," as set out below, effective with respect to such calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A

Rate Schedule

Employer Reserve Ratio	***Trust Fund Adequacy Rates***	A	B	C	D	E
8.0% and over	***0.157%***	0.30%	0.40%	0.50%	0.60%	1.00%
7.0% but under 8.0%	***0.257%***	0.40%	0.50%	0.60%	0.80%	1.05%
6.0% but under 7.0%	***0.357%***	0.50%	0.60%	0.70%	0.90%	1.10%
5.0% but under 6.0%	***0.557%***	0.70%	0.80%	1.00%	1.20%	1.40%

4.6% but under 5.0%	***0.857%***	1.00%	1.20%	1.40%	1.60%	1.80%
4.2% but under 4.6%	***1.157%***	1.30%	1.50%	1.80%	2.10%	2.30%
3.9% but under 4.2%	***1.357%***	1.50%	1.70%	2.20%	2.40%	2.70%
3.6% but under 3.9%	***1.657%***	1.80%	1.80%	2.40%	2.60%	3.00%
3.2% but under 3.6%	***1.857%***	2.00%	2.10%	2.50%	2.70%	3.10%
2.7% but under 3.2%	***1.957%***	2.10%	2.30%	2.60%	2.80%	3.20%
2.0% but under 2.7%	***2.057%***	2.20%	2.50%	2.70%	2.90%	3.30%
1.3% but under 2.0%	***2.157%***	2.30%	2.60%	2.80%	3.00%	3.40%
0.0% but under 1.3%	***2.257%***	2.40%	2.70%	2.90%	3.10%	3.50%
-0.5% but under -0.0%	***6.500%***	6.50%	6.75%	7.00%	7.25%	7.50%
-1.0% but under -0.5%	***6.750%***	6.75%	7.00%	7.25%	7.50%	7.75%
-1.5% but under -1.0%	***7.000%***	7.00%	7.25%	7.50%	7.75%	8.00%
-2.0% but under -1.5%	***7.250%***	7.25%	7.50%	7.75%	8.00%	8.25%
-3.0% but under -2.0%	***7.500%***	7.50%	7.75%	8.00%	8.25%	8.50%
-4.0% but under -3.0%	***7.750%***	7.75%	8.00%	8.25%	8.50%	8.75%
-6.0% but under -4.0%	***8.250%***	8.25%	8.50%	8.75%	9.00%	9.25%
-8.0% but under -6.0%	***8.500%***	8.50%	8.75%	9.00%	9.25%	9.50%
Less than -8.0%.	***9.000%***	9.00%	9.25%	9.50%	9.75%	10.00%

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

(a) "Trust fund balance" means the amount of money in the unemployment insurance fund, less any unpaid advances made to the state under Section 1201 of the Social Security Act. In determining the amount in the fund as of a given date all money received by the department as of such date shall be considered as being in the fund on such date.

(b) "Total wages" means all remuneration for services, as defined in subsections (1) to (7) of KRS 341.030, paid by subject employers.

(c) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the twelve (12) consecutive calendar quarters ended as of September 30 immediately preceding the computation date.

(d) For the purposes of this section, an employer's "reserve account balance" means the amount of contributions credited to his reserve account as of the computation date, less the benefit charges through September 30 immediately preceding the computation date. If benefits charged to an account exceed contributions credited to such account, such account shall be considered as having a debit balance and a reserve ratio of "less than zero."

(e) "Computation date" is October 31 of each calendar year prior to the effective date of new rates of contributions.

Section 2. KRS 341.330 is amended to read as follows:

(1) Not later than five (5) years after the date on which any contributions, interest or penalties were paid, an employing unit which has paid such contributions, interest or penalties may make application for an adjustment in connection with subsequent contribution payments, or for a refund thereof[~~ because such adjustment cannot be made~~]; except that no such application may be made in connection with any payment made as a result of any administrative determination affecting that employing unit's liability, contribution rate, or amount of contributions where no application for review by the commission was made as provided in subsection (2) of KRS 341.430, or where such review was made but no such adjustment was determined by the commission to be due.

(2) If such contributions, interest or penalties or any portion thereof were erroneously collected, the employing unit shall be allowed to make an adjustment thereof, without interest, in connection with subsequent contribution payments by it; ***or, if the amount erroneously collected exceeds fifty dollars ($50), the amount may be refunded, without interest, upon written request by the employing unit;*** or, if ***an***[~~such~~] adjustment cannot be made ***because the employing unit will have no subsequent liability***, ***the***[~~such~~] amount shall be refunded, without interest, from the funds into which such contributions, interest or penalties were paid.

(3) For like cause and within the same period, adjustment or refund may be so made by the secretary on his own initiative.

Section 3. KRS 341.380 is amended to read as follows:

(1) All benefits shall be paid through employment offices, or such other agencies as may be designated by regulations of the secretary. Claims for all payments of benefits shall be made in accordance with regulations of the secretary.

(2) The weekly benefit rate payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be an amount equal to one and one hundred eighty-five one-thousandths[~~ of one~~] percent (1.185%) of his total base-period wages, except that no worker's weekly benefit amount shall be less than ***thirty-nine***[~~twenty-two~~] dollars ***($39)***[~~($22)~~], nor more than the maximum rate as determined in accordance with subsection (3) of this section. ***For claims effective on or after January 1, 1999, the weekly benefit rate shall, except as provided in Section 4 of this Act, be one and two hundred thirty-five thousandths percent (1.235%) of his total base-period wages, except that no worker's weekly benefit amount shall be less than thirty-nine dollars ($39) nor more than the maximum rate as determined in accordance with subsection (3) of this section; provided, however, that the tax rate schedule prescribed in subsection (3)(a) of Section 1 of this Act is in effect in that year. If that rate schedule is not in effect in calendar year 1999 but takes effect in a subsequent calendar year, the increase in the weekly benefit rate calculation shall apply to claims effective on or after January 1 of the year in which that rate schedule is in effect.***

(3) Prior to the first day of July of each year the secretary shall determine the average weekly wage for insured employment by dividing the average monthly employment, as obtained by dividing the total monthly employment reported by subject employers for the preceding calendar year by twelve (12), into the total wages reported by such employers for such calendar year and dividing by fifty-two (52). Fifty-five percent (55%) of the amount thus obtained, adjusted to the nearest multiple of one dollar ($1), shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of such year and prior to the first day of July of the next following year; ***beginning in calendar year 1999, or any subsequent year in which the increase in the weekly benefit rate calculation set forth in subsection (2) of this section should take effect, sixty-two percent (62%) of the average weekly wage, adjusted to the nearest multiple of one dollar ($1), shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of that year and prior to the first day of July of the next following year;*** except that for the benefit years beginning on or after July 1, 1982, if the "trust fund balance" as of December 31 immediately preceding the benefit year is less than one hundred twenty million dollars ($120,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate. If such "trust fund balance" as of December 31 immediately preceding the benefit year:

(a) Equals or exceeds one hundred twenty million dollars ($120,000,000), but is less than one hundred fifty million dollars ($150,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than six percent (6%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1);

(b) Equals or exceeds one hundred fifty million dollars ($150,000,000), but is less than two hundred fifty million dollars ($250,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than eight percent (8%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1);

(c) Equals or exceeds two hundred fifty million dollars ($250,000,000), but is less than two hundred seventy-five million dollars ($275,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than ten percent (10%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1).

(d) Equals or exceeds two hundred seventy-five million dollars ($275,000,000), but is less than three hundred fifty million dollars ($350,000,000), the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate by more than twelve percent (12%). The rate thus determined shall be adjusted to the nearest multiple of one dollar ($1); and

(e) Is such that it resulted in the establishment of an employer contribution rate schedule, as provided for in KRS 341.270, for the current calendar year which has a higher minimum rate[~~ and a higher maximum rate~~] than the schedule in effect for the immediately preceding calendar year, the maximum weekly benefit rate shall not exceed the prior year's maximum weekly benefit rate.

(4) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of:

(a) Twenty-six (26) times his weekly benefit rate; or

(b) One-third (1/3) of his base-period wages, except that no worker's maximum amount shall be less than fifteen (15) times his weekly benefit rate. Such maximum amount, if not a multiple of one dollar ($1), shall be adjusted to the nearest multiple of one dollar ($1).

Section 4. KRS 341.390 is amended to read as follows:

There shall be deducted from the benefit rate determined for a worker in accordance with subsection (2) of KRS 341:380:

(1) Eighty percent (80%), adjusted to the nearest multiple of one dollar ($1), of the amount of wages earned by such worker during the week of unemployment with respect to which he claims benefits. For the purpose of this subsection, wages shall also include amounts earned by benefit claimants in self employment provided such earnings otherwise meet the definition of wages as contained in KRS 341.030;

(2) The amount of remuneration which the worker has received or is receiving with respect to such week of unemployment (adjusted to the nearest multiple of one dollar ($1) in the form of remuneration in lieu of notice; and

(3) (a) The amount of compensation payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment under a plan maintained or contributed to a chargeable or base-period employer, shall be reduced (but not below zero (0)) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week; except that the secretary may provide for limitations on the amount of any such deduction to take into account contributions made by the worker for the pension, retirement or retired pay, annuity, or other similar periodic payment. ***The weekly benefit amount payable to a claimant for a week shall be reduced, but not below zero, by no part of a Social Security retirement pension if fifty percent (50%) or more of the contributions to the plan were provided by the claimant during the claimant's base period.***

(b) No reduction shall be made under this section by reason of the receipt of a pension if the services performed by the worker during the base period (or remuneration received for such services) for such employer did not affect the worker's eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or other similar periodic payment. The conditions specified by this subsection shall not apply to pensions paid under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law). Payments made under such acts shall be treated solely in the manner specified by paragraph (a) of this subsection.

(c) If Public Law 94-566, Public Law 96-364 or the federal act which amends either for any cause shall become inoperative in its application, or stayed pendente lite, as to deductions of such compensation, then, subsection (3) of this section, by virtue of that fact, shall likewise and to the same extent, become inoperative as to such deductions.

Section 5. KRS 341.392 is amended to read as follows:

(1) A worker filing a new claim for unemployment benefits shall, at the time of filing such claim, disclose whether or not he owes child support obligations as defined under this section. If any such worker discloses that he owes child support obligations, and is determined to be eligible for unemployment benefits, the secretary shall notify the state or local child support enforcement agency enforcing such obligation that the worker has been determined to be eligible for unemployment benefits.

(2) The secretary shall deduct and withhold from any unemployment benefits payable to a worker that owes child support obligations:

(a) The amount specified by the worker to the secretary to be deducted and withheld under this subsection, if neither (b) nor (c) applies;

(b) The amount, if any, determined pursuant to an agreement submitted to the secretary under 42 U.S.C. 654 (Section 454(20)(b)(i) of the Social Security Act) by the state or local child support enforcement agency if (c) is not applicable; or

(c) Any amount required to be so deducted and withheld from such unemployment benefits pursuant to legal process as that term is defined in~~[42 U.S.C. 662(e) (Section 462(e) of]~~ the Social Security Act~~[)]~~ properly served upon the secretary.

(3) (a) Any amount deducted and withheld under this section shall be paid by the secretary to the appropriate state or local child support enforcement agency.

(b) Any amount deducted and withheld under this section shall for all purposes be treated as if it were paid to the worker as unemployment benefits and paid by such worker to the state or local child support enforcement agency in satisfaction of the worker's child support obligations.

(4) For purposes of this section, the term "unemployment benefits" shall mean any compensation payable under this chapter (including amounts payable by the secretary pursuant to an agreement under any federal law providing compensation, assistance, or allowances with respect to unemployment).

(5) The provisions set forth in this section apply only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the secretary under this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(6) The term "child support obligations" is defined for purposes of these provisions as including only obligations which are being enforced pursuant to a plan prescribed in 42 U.S.C. 654 (Section 454 of the Social Security Act) which has been approved by the Secretary of Health and Human Services under 42 U.S.C. 651-662 (Part D of Title IV of the Social Security Act).

(7) The term "state or local child support enforcement agency" as used in these provisions means any agency of a state or a political subdivision thereof operating pursuant to a plan described in this section.

Section 6. KRS 341.415 is amended to read as follows:

(1) Any person who has received any sum as benefits under this chapter or any other state's unemployment insurance statutes or any United States Department of Labor unemployment insurance benefit program providing the secretary has signed a reciprocal agreement with such other state or the United States Department of Labor as provided in KRS 341.145, while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, or if he has received benefits in weeks for which he later receives a back pay award, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the department for the fund a sum equal to the amount so received by him. If after due notice the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected in the manner provided in subsection (2) of KRS 341.300 for collection of past-due contributions and any sums so collected shall be credited to the pooled account or the appropriate reimbursing employer account. ***However, if the benefit was paid as a result of departmental error as defined by administrative regulation***~~[Unless there has been a false statement, misrepresentation, concealment of material information, or an award of back pay, by a recipient of benefits]~~, there shall be no recoupment or recovery of an improperly paid benefit, except by deduction from any future benefits payable to him under this chapter~~[, if the benefit was paid as a result of departmental error]~~. For purposes of this section, overpayments as a result of a reversal of entitlement to benefits in the appeal or review process shall not be construed to be the result of departmental error.

(2) At or after the commencement of an action under subsection (1) of this section, attachment may be had against property of the recipient of improperly paid benefits in the manner provided in subsection (3) of KRS 341.300.

(3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby created in favor of the department upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined ***and shall continue until the amount of the overpayment plus any subsequent assessment of additional improperly paid benefits, interest, and fees are fully paid***. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.

(4) Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under subsections (1), (2), and (3) of this section, which has neither been repaid nor so deducted within a period of five (5) years following the last day of the benefit year within which it was paid, may be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person within a period of ten (10) years of the last day of the benefit year within which such payments were made at which time these amounts may be declared uncollectible. Nothing in this subsection shall be deemed to affect collection of improperly paid benefits pursuant to a judgment or other legal remedy.

(5) In the event benefits have been paid as a result of false statement, misrepresentation, or concealment of material information by a recipient of benefits and have not been repaid by the recipient within one (1) calendar year from the date of the first notice, interest at the rate of one and five-tenths percent (1.5%) per month or any part thereof, shall be imposed on and added to the unpaid balance each successive month, providing due notice has been given to the recipient.

Such interest shall be paid into the unemployment compensation administration account.

(6) The deduction from future benefits specified in subsection (1) of this section shall be limited to twenty-five percent (25%) of the benefit amount otherwise payable under this chapter unless the overpayment resulted from a backpay award***, false statement, misrepresentation, or concealment of material information by a recipient of benefits. In these instances, the rate of deduction shall be one hundred percent (100%)***. The rate of deduction from benefits payable by another state or the United States of America shall be determined by the applicable state or federal statute.

Section 7. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. In cases involving awards to a worker by an arbitrator,~~[the National Labor Relations Board,]~~ court, ***or*** other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the Department for Employment Services, Cabinet for Workforce Development prior to paying any back pay award.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary, or his representatives. Any worker claiming benefits in any proceeding before ***a referee or*** the commission may represent himself or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

(3) (a) Any employer in any proceeding before ***a referee or*** the commission may represent himself or may be represented by counsel or other agent duly authorized by such employer; and

(b) Any person appearing in any proceeding before ***a referee or*** the commission who is an officer of, or who regularly performs in a managerial capacity for, a corporation or partnership which is a party to the proceeding in which the appearance is made shall be permitted to represent such corporation or partnership and shall be afforded the opportunity to participate in the proceeding without restriction.

(4) No assignment, pledge, or encumbrance of any right to benefits due or payable under this chapter shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy for the collection of all debts except debts incurred for necessaries furnished to such worker or his spouse or dependents during the time such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

(5) The provisions of this section shall not be applicable to child support deductions made in accordance with KRS 341.392 and withholding for federal and state income tax in accordance with KRS 341.395.

Section 8. KRS 341.490 is amended to read as follows:

(1) There shall be a special fund known as the unemployment insurance fund which shall be administered separate and apart from all public money or funds of this state. This fund shall consist of:

(a) All contributions, payments in lieu of contributions, and money collected under this chapter, except fines, penalties, and interest on delinquent contributions collected under KRS 341.300 ***and service capacity upgrade payments collected under Section 11 of this Act***;

(b) Interest earned upon any money in the fund;

(c) Any property or securities acquired through use of money belonging to the fund;

(d) All earnings of such property or securities;

(e) All money received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the Social Security Act as amended;

(f) All money credited to the account of this state in the unemployment trust fund in accordance with Section 903 of the Social Security Act as amended; and

(g) All money received from the federal government as reimbursement, pursuant to Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970.

(2) All moneys in the fund shall be commingled and undivided.

(3) Subject to the provisions of this chapter, the secretary may have full power, authority, and jurisdiction over the fund, including all money and property or securities belonging thereto, and may perform any act necessary or convenient in the administration thereof consistent with this chapter.

Section 9. KRS 341.530 is amended to read as follows:

(1) The department shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged against the reserve account or reimbursing employer account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive ***back to the beginning of the worker's base period***.

- (a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and
- (b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or ***the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire***[~~such employer has continuously employed the worker without significant interruption since the end of the worker's base period and in the week with respect to which benefits are paid, wages and employment are provided to the worker by such employer to the same extent as during the base period~~], and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the department, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing ***part-time*** employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.

(5) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.

(6) Any subject contributing employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary contributions by any employer subject to a minimum rate as provided in KRS 341.270(2) or KRS 341.272(1) shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

Section 10. KRS 341.540 is amended to read as follows:

(1) Any employing unit which succeeds to or acquires the organization, trade or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including interest, and shall continue the payment of all contributions and interest due under this chapter, except that the successor or acquirer shall not be required to assume the liability of any delinquent contributions and interest of a predecessor or predecessors unless the cabinet notifies the successor or acquirer of such delinquency within six (6) months after the department has notice of the succession or acquisition.

(2) The liability for delinquent contributions and interest imposed upon the successor or acquirer by subsection (1) of this section shall be secondary to the liability of the predecessor or predecessors, and if the delinquency has been reduced to judgment, the order of execution on such judgment shall be as follows:

(a) Against the assets, both real and personal, of the predecessor or predecessors;

(b) Against the assets, both real and personal, of the business acquired; and

(c) Against the assets, both real and personal, of the successor or acquirer.

(3) Notwithstanding the provisions of subsection (1), any employing unit which succeeds to or acquires a ***segregable and identifiable*** portion of the organization, trade or business from a subject employer, and who is, or by reason of such succession or acquisition becomes, a subject employer, shall assume the position of such employer with respect to the resources and liabilities of such reserve account in proportion to the ***percentage of the payroll or employees assignable to the transferred portion as determined by the secretary***[~~extent of such succession or acquisition as proposed by the parties in interest to the secretary for his approval or disapproval~~], and the taxable payroll, benefit charges and the potential benefit charges shall likewise be assumed by the successors or acquirers in interest in a like proportion[~~. In the absence of an approved agreement, the secretary may, not sooner than three (3) calendar months following the date of succession or acquisition, establish the extent of succession based upon the proportion of gross payroll reported by the predecessor in the most recently completed calendar quarter preceding the date of succession or acquisition for workers employed by the successor subsequent to that date; or upon such other basis as may be set forth in regulation~~].

(4) (a) The contribution rate of a successor or acquirer employing unit, whether in whole or in part, which was a subject employer prior to such succession or acquisition, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which such succession or acquisition occurred.

(b) The contribution rate of a successor or acquirer employing unit, either in whole or in part, which was not a subject employer prior to such succession or acquisition, shall be, for the calendar year in which such succession or acquisition occurred, the same rate as that of its predecessor.

(c) The contribution rate for a successor or acquirer employing unit, which was not a subject employer prior to the simultaneous succession to or acquisition of two (2) or more predecessor reserve accounts, either in whole or in part, shall be the rate determined in accordance with the provisions of KRS 341.270, by combining the reserve accounts succeeded to or acquired as they existed as of the computation date for determining rates for the calendar year in which such succession or acquisition occurred.

(d) The contribution rate of a successor or acquirer employing unit which succeeds to or acquires, either in whole or in part, a predecessor's reserve account after a computation date but prior to the beginning of the calendar year immediately following such computation date shall be the rate determined, in accordance with KRS 341.270, by effecting the transfer of such reserve account as of the computation date immediately preceding the date of such succession or acquisition.

SECTION 11. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the State Treasury a special fund known as the service capacity upgrade fund that shall be administered separate and apart from all public money or funds of the state.

(2) The service capacity upgrade fund shall be used solely for acquisition and upgrading of the technology base, program integrity functions, and service delivery capacity in support of the programs administered by the Department for Employment Services. The secretary shall have full power, authority, and jurisdiction over the fund, including all money, property, and securities belonging thereto, and shall perform any act necessary or convenient in the administration of the fund consistent with this section. The secretary shall provide an annual report to the Interim Joint Committee on Labor and Industry detailing all receipts and expenditures of the fund.

(3) Any money collected under the provisions of this section shall be invested at interest in banks or other interest-bearing obligations of the United States. Investments shall at all times be made so that all the assets of the service capacity upgrade fund shall be convertible into cash when needed for the payment of expenses incurred in upgrading the service capacity of the Department for Employment Services. All interest income received under this section shall be credited to the fund. The State Treasurer shall dispose of securities or other property belonging to the fund only under the direction of the secretary and the secretary of the Finance and Administration Cabinet.

(4) Effective January 1, 1999, all rates otherwise established under Section 1 of this Act and KRS 341.272 shall be reduced by subtracting seventy-five thousandths percent (0.075%) from each rate, but only if the trust fund balance as of December 31 of the preceding year is equal to or greater than one and eighteen hundredths percent (1.18%) of the total wages paid in the state during the state fiscal year ended as of June 30 of that year.

(a) If the trust fund balance as of December 31, 1999, is less than the trust fund balance as of December 31, 1998, the amount of the rate reduction for calendar year 2000 shall be reduced by forty percent (40%) to the level of forty-five thousandths percent (0.045%).

(b) If the trust fund balance as of December 31, 2000, is less than the trust fund balance as of December 31,

1999, the amount of the rate reduction for calendar year 2001 shall be forty percent (40%) less than the amount of the rate reduction which was in effect in calendar year 2000.

(5) For any calendar year in which all rates have been reduced in accordance with subsection (4) of this section, all contributory employers shall pay into the service capacity upgrade fund an amount equal to the percentage by which rates were reduced multiplied by their taxable wages paid during that calendar year. Payments shall be made at the same time and in the same manner as prescribed for payment of contributions under KRS 341.260 and all regulations prescribed by the secretary in support of that section. The restrictions in subsection (1) of Section 7 of this Act apply equally to the provisions of this section. Failure to make these payments shall be subject to interest and all other collection actions provided for failure to make contributions under KRS 341.300.

(6) All payments required under subsection (5) of this section, along with any interest due to late payment of these assessments, shall be deposited in the service capacity upgrade fund.

(7) The provisions of this section shall expire with regard to rates assigned for calendar years beginning after December 31, 2001, and any balance of moneys or property in the fund not expended or obligated for purposes consistent with this section by June 30, 2002, shall be deposited in the unemployment insurance trust fund.

Section 12. The following KRS section is repealed:

341.285 Transition provision.

The Committee on Transportation reported **HB 790, HB 827, HJR 92,** with Committee Substitute and Committee Amendments attached thereto, **HJR 115, HCR 119, SB 106, SB 122,** and **SB 354** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 790, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. In memory of the strategic Civil War battle conducted in Kentucky on January 10, 1862, and in cooperation with the Middle Creek National Battlefield Foundation, Incorporated, the Transportation Cabinet is directed to erect appropriate signs naming the following locations:

(1) KY 114, in Floyd County, shall be named the "Middle Creek Battlefield Parkway."

(2) The bridge that crosses over the Right Fork of Middle Creek on KY 404, in Floyd County, shall be named the "Brigadier General Humphrey Marshall Bridge."

(3) The bridge that crosses over the CSX Railway on KY 114 at KY 2555, in Floyd County, shall be named the "President James Garfield Bridge."

HB 827, AN ACT relating to public roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 178.010 is amended to read as follows:

(1) As used in this chapter, unless the context otherwise requires:

(a) "Construction" includes reconstruction and improvement;

(b) "County roads" are public roads which have been accepted by the fiscal court of the county as a part of the county road system after July 1, 1914, or private roads, streets, or highways which have been acquired by the county pursuant to KRS 178.405 to 178.425. "County roads" includes necessary bridges, culverts, sluices, drains, ditches, waterways, embankments or retaining walls; [~~and~~]

(c) "Hard surface road" means a road the surface of which is asphalt, brick, stone block, macadam, concrete, gravel or other material of equal merit*; and*

(d) "Public use road" means any road that has been open to use by the general public as a matter of right without restriction for at least fifteen (15) years and has not been formally dedicated and accepted as a county road under the provisions of this chapter.

(2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of *the*[~~such~~] city.

(3) Nothing in this chapter shall prevent any fiscal court from acquiring land by gift for public purposes.

(4) Nothing in this chapter, including the fact that a municipal street has not been accepted into the county road system, shall prevent any county from entering into an agreement, pursuant to the provisions of KRS 65.220 to 65.300, with any city located within the county to perform work upon or to provide personnel, materials or equipment for work to be

performed upon any street located within the city, provided that the city agrees to pay the costs if any associated with any such agreement.

(5) A fiscal court shall not perform work on or maintain a public use road.

SECTION 2. A NEW SECTION OF KRS CHAPTER 178 IS CREATED TO READ AS FOLLOWS:

A property owner whose land adjoins a public use road shall not be denied access by another property owner with land adjoining the public use road. Any property owner denied access may enforce right of access by filing a private action with the District Court having jurisdiction over the public use road and requesting the court to grant access through a summary proceeding establishing the road is a public use road.

Section 3. KRS 178.025 is amended to read as follows:

(1) ***Except for public use roads,*** any road, street, highway or parcel of ground dedicated and laid off as a public way and used without restrictions by the general public for five (5) consecutive years, shall conclusively be presumed to be a public road.

(2) In the absence of any record, the width of a public road right-of-way shall be presumed to extend to and include that area lying outside the shoulders and ditch lines and within any landmarks ***including***[~~such as~~] fences, fence posts, corner stones or other similar monuments indicating the boundary line.

(3) In the absence of both record or landmark, the right-of-way of a public road shall be deemed to extend to and include the shoulders and ditch lines adjacent to ***the***[~~said~~] road, and to the top of ***any*** cuts or toe of fills [~~where such exist~~].

HJR 92, A JOINT RESOLUTION establishing the additional four (4) year highway construction plan outlined in the Recommended FY 1999 - FY 2004 Six Year Road Plan presented to the 1998 General Assembly.

WHEREAS, the statutes of the Commonwealth require a highway construction plan to be presented to the General Assembly that details those projects that will be presented for construction by the Department of Highways in future years; and

WHEREAS, the General Assembly recognizes the importance of planning and the assurance that once projects are initiated that they are completed; and

WHEREAS, in previous years shifting of projects has diminished the confidence of the General Assembly and the public that roads in the Six Year Road Plan will be constructed in a timely fashion; and

WHEREAS, the first major step in assuring that road projects are planned and built in a conscientious manner is to adopt projects scheduled for funding during the biennium in the budget memorandum and the projects scheduled for funding in the last four (4) years of the road plan in a joint resolution; and

WHEREAS, the General Assembly in adoption of this resolution is committed to working with the Department of Highways to develop a balanced and workable six (6) year road plan;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The projects authorized by the General Assembly in this Resolution constitute the official four (4) year highway construction plan outlined in the Recommended FY 1999 - FY 2004 Six Year Road Plan presented to the 1998 General Assembly. The following projects shall be the 2001-2004 additional four (4) year highway construction plan with project phases not scheduled for completion until after Fiscal Year 2000:

COUNTY	ITEM #	ROUTE	FUND	PHASE	ESTIMATE	FY
ADAIR	08- 159.00	KY-55	STP	CONSTRUCTION	$11,925,000	2001
ADAIR	08- 162.00	KY-61	SP	DESIGN	$1,000,000	2004
ADAIR	08- 5005.00	KY-6172	SP	DESIGN	$35,000	2002
ADAIR	08- 5005.00	KY-6172	SP	RIGHT OF WAY	$10,000	2003
ALLEN	03- 146.11	US-231	STP	CONSTRUCTION	$7,000,000	2001
ALLEN	03- 146.40	US-231	STP	RIGHT OF WAY	$4,000,000	2001
ALLEN	03- 146.40	US-231	STP	UTILITIES	$3,500,000	2002
ALLEN	03- 146.41	US-231	STP	CONSTRUCTION	$8,000,000	2003
ANDERSON	07- 304.01	US-127	SP	RIGHT OF WAY	$1,500,000	2001
ANDERSON	07- 304.01	US-127	SP	UTILITIES	$1,000,000	2002
ANDERSON	07- 346.00	KY-44	STP	CONSTRUCTION	$2,000,000	2001
ANDERSON	07- 2008.00	BG-9002	SP	DESIGN	$60,000	2002
ANDERSON	07- 2008.00	BG-9002	SP	CONSTRUCTION	$3,750,000	2004

BALLARD	01- 23.00	I-66	NH	DESIGN	$500,000	2002
BALLARD	01- 115.00	US-60	SP	DESIGN	$750,000	2003
BALLARD	01- 185.00	US-51	NH	CONSTRUCTION	$2,500,000	2003
BARREN	03- 185.00	KY-70	KYD	CONSTRUCTION	$7,870,000	2002
BARREN	03- 192.01	-	SP	RIGHT OF WAY	$2,000,000	2002
BARREN	03- 192.01	-	SP	UTILITIES	$2,000,000	2004
BARREN	03- 192.20	-	SP	CONSTRUCTION	$10,000,000	2001
BARREN	03- 2002.00	I-65	IM	CONSTRUCTION	$2,500,000	2002
BATH	09- 127.00	KY-36	SP	DESIGN	$400,000	2003
BATH	09- 2001.00	I-64	IM	DESIGN	$80,000	2001
BATH	09- 2001.00	I-64	IM	CONSTRUCTION	$5,000,000	2003
BATH	09- 2002.00	I-64	IM	DESIGN	$180,000	2003
BATH	09- 5002.00	I-64	SP	DESIGN	$40,000	2001
BATH	09- 5002.00	I-64	SP	CONSTRUCTION	$400,000	2002
BATH	09- 5003.00	I-64	SP	DESIGN	$60,000	2001
BATH	09- 5003.00	I-64	SP	CONSTRUCTION	$900,000	2002
BELL	11- 57.00	US-119	NH	RIGHT OF WAY	$125,000	2001
BELL	11- 57.00	US-119	NH	UTILITIES	$60,000	2001
BELL	11- 57.00	US-119	NH	CONSTRUCTION	$2,000,000	2002
BELL	11- 135.00	KY-92	SP	DESIGN	$300,000	2002
BELL	11- 214.40	US-25E	SP	CONSTRUCTION	$1,250,000	2001
BELL	11- 214.50	US-25E	SP	CONSTRUCTION	$1,250,000	2002
BELL	11- 214.51	US-25E	SP	CONSTRUCTION	$1,250,000	2003
BELL	11- 214.52	US-25E	SP	CONSTRUCTION	$1,250,000	2004
BELL	11- 217.00	KY-66	SP	DESIGN	$40,000	2001
BELL	11- 217.00	KY-66	STP	RIGHT OF WAY	$1,500,000	2003
BELL	11- 1033.00	KY-2013	BRZ	CONSTRUCTION	$450,000	2001
BELL	11- 1034.00	KY-988	BRZ	CONSTRUCTION	$450,000	2001
BELL	11- 1044.00	CR-1212	BRZ	CONSTRUCTION	$250,000	2001
BELL	11- 1050.00	KY-1491	BRX	RIGHT OF WAY	$52,000	2002
BELL	11- 1050.00	KY-1491	BRX	UTILITIES	$10,000	2002
BOONE	06- 12.23	I-275	IM	CONSTRUCTION	$2,000,000	2001
BOONE	06- 64.01	US-42	STP	UTILITIES	$1,550,000	2001
BOONE	06- 64.01	US-42	STP	CONSTRUCTION	$8,000,000	2002
BOONE	06- 101.00	KY-536	SAF	CONSTRUCTION	$3,600,000	2001
BOONE	06- 116.00	-	SP	CONSTRUCTION	$1,400,000	2001
BOONE	06- 146.00	-	SP	CONSTRUCTION	$500,000	2001
BOONE	06- 316.01	KY-1017	SP	RIGHT OF WAY	$1,500,000	2001
BOONE	06- 316.01	KY-1017	SP	UTILITIES	$1,000,000	2003
BOONE	06- 331.01	-	CM	CONSTRUCTION	$500,000	2001
BOONE	06- 331.02	-	CM	CONSTRUCTION	$1,700,000	2004
BOONE	06- 351.00	US-25	STP	DESIGN	$750,000	2002
BOONE	06- 351.00	US-25	STP	RIGHT OF WAY	$2,000,000	2004
BOONE	06- 1039.00	-	CM	CONSTRUCTION	$50,000	2001
BOONE	06- 1044.02	-	CM	CONSTRUCTION	$1,250,000	2001
BOONE	06- 1044.03	-	CM	CONSTRUCTION	$1,500,000	2002
BOONE	06- 1044.04	-	CM	CONSTRUCTION	$1,700,000	2003

BOONE	06- 1044.05	-	CM	CONSTRUCTION	$1,500,000	2004
BOONE	06- 2002.00	I-275	IM	CONSTRUCTION	$12,100,000	2001
BOONE	06- 2004.00	I-71	IM	CONSTRUCTION	$2,600,000	2001
BOONE	06- 5001.00	US-42	SP	CONSTRUCTION	$512,500	2001
BOURBON	07- 310.01	US-68	NH	CONSTRUCTION	$14,000,000	2001
BOURBON	07- 310.02	US-68	NH	CONSTRUCTION	$8,000,000	2002
BOURBON	07- 310.03	US-68	NH	CONSTRUCTION	$4,000,000	2003
BOYD	09- 60.00	I-64	IM	DESIGN	$1,000,000	2003
BOYD	09- 112.00	US-23S	NH	CONSTRUCTION	$2,000,000	2004
BOYD	09- 129.00	-	STP	DESIGN	$1,000,000	2001
BOYD	09- 141.00	KY-5	SP	DESIGN	$300,000	2004
BOYD	09- 176.00	US-23	NH	UTILITIES	$100,000	2001
BOYD	09- 176.00	US-23	NH	CONSTRUCTION	$720,000	2002
BOYD	09- 212.31	-	SP	CONSTRUCTION	$5,000,000	2004
BOYD	09- 275.00	US-60	STP	CONSTRUCTION	$2,900,000	2001
BOYD	09- 5005.00	US-23	SP	DESIGN	$50,000	2002
BOYD	09- 5005.00	US-23	SP	RIGHT OF WAY	$15,000	2003
BOYD	09- 5005.00	US-23	SP	UTILITIES	$20,000	2003
BOYLE	07- 210.00	KY-2168	SP	DESIGN	$600,000	2002
BOYLE	07- 210.00	KY-2168	SP	RIGHT OF WAY	$3,600,000	2004
BOYLE	07- 211.00	US-150B	SP	RIGHT OF WAY	$800,000	2002
BOYLE	07- 211.00	US-150B	SP	UTILITIES	$300,000	2003
BRACKEN	06- 355.03	-	SP	CONSTRUCTION	$100,000	2001
BRACKEN	06- 355.04	-	SP	CONSTRUCTION	$100,000	2002
BRACKEN	06- 355.05	-	SP	CONSTRUCTION	$100,000	2003
BRACKEN	06- 355.06	-	SP	CONSTRUCTION	$100,000	2004
BREATHITT	10- 270.11	KY-15	NH	CONSTRUCTION	$4,000,000	2002
BREATHITT	10- 270.12	KY-15	NH	CONSTRUCTION	$9,000,000	2003
BREATHITT	10- 270.20	KY-15	SP	UTILITIES	$1,500,000	2001
BREATHITT	10- 285.01	KY-15	NH	RIGHT OF WAY	$7,310,000	2001
BREATHITT	10- 285.01	KY-15	NH	UTILITIES	$925,000	2003
BREATHITT	10- 286.01	KY-15	NH	RIGHT OF WAY	$10,500,000	2001
BREATHITT	10- 286.01	KY-15	NH	UTILITIES	$1,700,000	2003
BREATHITT	10- 5007.00	KY-1812	SP	DESIGN	$100,000	2003
BREATHITT	10- 5007.00	KY-1812	SP	RIGHT OF WAY	$40,000	2004
BRECKINRIDGE	04- 1048.00	KY-992	BRX	CONSTRUCTION	$300,000	2002
BULLITT	05- 117.00	KY-61	STP	RIGHT OF WAY	$5,000,000	2001
BULLITT	05- 117.00	KY-61	STP	UTILITIES	$2,000,000	2003
BULLITT	05- 117.00	KY-61	STP	CONSTRUCTION	$10,000,000	2004
BULLITT	05- 347.50	KY-44	STP	DESIGN	$1,000,000	2004
BULLITT	05- 2008.00	I-65	IM	CONSTRUCTION	$600,000	2002
BULLITT	05- 5004.00	KY-44	SP	DESIGN	$65,000	2001
BULLITT	05- 5004.00	KY-44	SP	RIGHT OF WAY	$75,000	2002
BULLITT	05- 5004.00	KY-44	SP	CONSTRUCTION	$500,000	2003
BUTLER	03- 5000.00	US-231	SP	CONSTRUCTION	$180,000	2002
CALDWELL	02- 2011.00	WK-9001	SP	DESIGN	$70,000	2003
CALDWELL	02- 2011.00	WK-9001	SP	CONSTRUCTION	$4,000,000	2004

CALDWELL	02- 5005.00	WK-9001	SP	RIGHT OF WAY	$50,000	2001
CALDWELL	02- 5005.00	WK-9001	SP	UTILITIES	$10,000	2001
CALDWELL	02- 5005.00	WK-9001	SP	CONSTRUCTION	$1,100,000	2002
CALLOWAY	01- 181.11	US-68	SP	CONSTRUCTION	$16,000,000	2001
CALLOWAY	01- 181.14	US-68	SP	CONSTRUCTION	$16,000,000	2002
CALLOWAY	01- 181.21	KY-80	SP	UTILITIES	$1,210,000	2002
CALLOWAY	01- 181.22	KY-80	SP	UTILITIES	$3,300,000	2002
CALLOWAY	01- 181.22	KY-80	SP	CONSTRUCTION	$6,000,000	2004
CALLOWAY	01- 181.30	KY-80	SP	UTILITIES	$2,870,000	2001
CALLOWAY	01- 181.30	KY-80	SP	CONSTRUCTION	$12,000,000	2003
CALLOWAY	01- 181.31	KY-80	SP	UTILITIES	$3,300,000	2001
CALLOWAY	01- 181.31	KY-80	SP	CONSTRUCTION	$6,000,000	2003
CALLOWAY	01- 181.35	KY-80	SP	CONSTRUCTION	$14,000,000	2004
CALLOWAY	01- 314.00	US-641	SP	DESIGN	$1,800,000	2002
CALLOWAY	01- 1127.00	KY-280	BRX	CONSTRUCTION	$450,000	2002
CALLOWAY	01- 1128.00	KY-1824	BRX	RIGHT OF WAY	$55,000	2001
CALLOWAY	01- 1128.00	KY-1824	BRX	UTILITIES	$200,000	2002
CALLOWAY	01- 1128.00	KY-1824	BRX	CONSTRUCTION	$700,000	2003
CALLOWAY	01- 1129.00	KY-1824	BRX	RIGHT OF WAY	$55,000	2001
CALLOWAY	01- 1129.00	KY-1824	BRX	UTILITIES	$200,000	2002
CALLOWAY	01- 1129.00	KY-1824	BRX	CONSTRUCTION	$1,000,000	2003
CAMPBELL	06- 6.00	I-471	IM	CONSTRUCTION	$3,000,000	2002
CAMPBELL	06- 46.20	US-27	SP	CONSTRUCTION	$12,000,000	2002
CAMPBELL	06- 125.00	KY-2938	SP	DESIGN	$600,000	2003
CAMPBELL	06- 352.00	KY-536	SP	DESIGN	$600,000	2001
CAMPBELL	06- 352.00	KY-536	STP	RIGHT OF WAY	$7,000,000	2003
CAMPBELL	06- 1029.00	KY-1120	BRO	UTILITIES	$500,000	2001
CAMPBELL	06- 1029.00	KY-1120	BRO	CONSTRUCTION	$2,800,000	2002
CAMPBELL	06- 5003.00	KY-8	SP	RIGHT OF WAY	$100,000	2002
CAMPBELL	06- 5003.00	KY-8	SP	CONSTRUCTION	$3,000,000	2003
CAMPBELL	06- 5004.00	I-275	SP	DESIGN	$180,000	2001
CAMPBELL	06- 5004.00	I-275	SP	CONSTRUCTION	$1,500,000	2002
CAMPBELL	06- 5005.00	I-275	SP	DESIGN	$210,000	2001
CAMPBELL	06- 5005.00	I-275	NH	CONSTRUCTION	$1,750,000	2002
CAMPBELL	06- 5006.00	I-471	SP	DESIGN	$100,000	2001
CAMPBELL	06- 5006.00	I-471	SP	CONSTRUCTION	$1,000,000	2002
CARLISLE	01- 183.00	US-51	STP	DESIGN	$600,000	2002
CARLISLE	01- 1119.00	US-62	BRO	RIGHT OF WAY	$150,000	2001
CARLISLE	01- 1119.00	US-62	BRO	UTILITIES	$160,000	2001
CARLISLE	01- 1119.00	US-62	BRO	CONSTRUCTION	$600,000	2003
CARROLL	06- 12.25	I-71	IM	CONSTRUCTION	$700,000	2001
CARROLL	06- 147.00	US-42	SP	CONSTRUCTION	$5,000,000	2001
CARROLL	06- 347.00	KY-389	BRX	RIGHT OF WAY	$100,000	2001
CARROLL	06- 347.00	KY-389	BRX	UTILITIES	$75,000	2001
CARROLL	06- 347.00	KY-389	BRX	CONSTRUCTION	$850,000	2002
CARROLL	06- 5009.00	I-71	SP	DESIGN	$90,000	2003
CARTER	09- 144.00	-	SP	DESIGN	$225,000	2003

CARTER	09- 159.00	US-60	STP	UTILITIES	$300,000	2001
CARTER	09- 159.00	US-60	STP	CONSTRUCTION	$3,375,000	2003
CARTER	09- 175.00	KY-7	SP	UTILITIES	$50,000	2001
CARTER	09- 175.00	KY-7	SP	CONSTRUCTION	$1,000,000	2002
CARTER	09- 1041.00	KY-1947	BRX	RIGHT OF WAY	$50,000	2001
CARTER	09- 1041.00	KY-1947	BRX	UTILITIES	$45,000	2001
CARTER	09- 1041.00	KY-1947	BRX	CONSTRUCTION	$345,000	2003
CARTER	09- 2003.00	I-64	IM	DESIGN	$50,000	2004
CARTER	09- 5004.00	US-60	SP	DESIGN	$65,000	2001
CARTER	09- 5004.00	US-60	SP	RIGHT OF WAY	$20,000	2002
CARTER	09- 5004.00	US-60	SP	UTILITIES	$40,000	2002
CARTER	09- 5004.00	US-60	SP	CONSTRUCTION	$800,000	2003
CASEY	08- 142.00	KY-70	SP	DESIGN	$500,000	2004
CASEY	08- 164.00	US-127	STP	DESIGN	$150,000	2001
CASEY	08- 164.00	US-127	STP	RIGHT OF WAY	$200,000	2002
CASEY	08- 164.00	US-127	STP	UTILITIES	$100,000	2002
CASEY	08- 164.00	US-127	STP	CONSTRUCTION	$600,000	2003
CASEY	08- 5002.00	US-127	SP	DESIGN	$50,000	2001
CASEY	08- 5002.00	US-127	SP	RIGHT OF WAY	$12,000	2002
CASEY	08- 5002.00	US-127	SP	CONSTRUCTION	$280,000	2002
CHRISTIAN	02- 100.00	PE-9004	NH	RIGHT OF WAY	$5,000,000	2002
CHRISTIAN	02- 100.00	PE-9004	NH	UTILITIES	$2,000,000	2003
CHRISTIAN	02- 100.00	PE-9004	NH	CONSTRUCTION	$19,000,000	2004
CHRISTIAN	02- 213.00	I-24	IM	DESIGN	$500,000	2001
CHRISTIAN	02- 213.00	I-24	IM	RIGHT OF WAY	$1,000,000	2003
CHRISTIAN	02- 213.00	I-24	IM	UTILITIES	$750,000	2004
CHRISTIAN	02- 308.00	US-41A	NH	CONSTRUCTION	$10,000,000	2001
CHRISTIAN	02- 2000.00	I-24	IM	CONSTRUCTION	$2,500,000	2002
CLARK	07- 314.00	KY-1958	SP	DESIGN	$200,000	2003
CLARK	07- 331.01	-	SP	RIGHT OF WAY	$3,000,000	2001
CLARK	07- 331.01	-	SP	UTILITIES	$2,635,000	2002
CLARK	07- 331.01	-	SP	CONSTRUCTION	$10,000,000	2003
CLARK	07- 1080.00	CR-1210	BRZ	CONSTRUCTION	$350,000	2001
CLARK	07- 2001.00	I-64	IM	CONSTRUCTION	$2,000,000	2002
CLARK	07- 2002.00	I-64	IM	CONSTRUCTION	$3,100,000	2002
CLARK	07- 2010.00	KY-9000	SP	DESIGN	$150,000	2003
CLARK	07- 2010.00	KY-9000	SP	CONSTRUCTION	$7,360,000	2004
CLAY	11- 273.01	US-421	SP	RIGHT OF WAY	$5,600,000	2002
CLAY	11- 273.01	US-421	SP	UTILITIES	$2,700,000	2004
CLAY	11- 1035.00	US-421	BRO	CONSTRUCTION	$800,000	2002
CLAY	11- 2005.00	DB-9006	SP	DESIGN	$90,000	2002
CLAY	11- 2006.00	DB-9006	SP	DESIGN	$50,000	2002
CLAY	11- 2006.00	DB-9006	SP	CONSTRUCTION	$5,000,000	2003
CLAY	11- 4087.00	CR-1118	SP	CONSTRUCTION	$800,000	2001
CLAY	11- 5000.00	KY-11	SP	RIGHT OF WAY	$10,000	2001
CLAY	11- 5000.00	KY-11	SP	UTILITIES	$10,000	2001
CLAY	11- 5000.00	KY-11	SP	CONSTRUCTION	$420,500	2002

CLAY	11- 5005.00	KY-66	SP	DESIGN	$80,000	2003
CLAY	11- 5005.00	KY-66	SP	RIGHT OF WAY	$20,000	2004
CLAY	11- 5005.00	KY-66	SP	UTILITIES	$20,000	2004
CLAY	11- 5006.00	KY-80	SP	DESIGN	$50,000	2004
CLINTON	08- 165.00	US-127	SP	DESIGN	$800,000	2002
CLINTON	08- 165.00	US-127	SP	RIGHT OF WAY	$3,500,000	2004
CLINTON	08- 260.02	US-127	SP	CONSTRUCTION	$7,000,000	2001
CLINTON	08- 260.10	US-127	STP	RIGHT OF WAY	$2,500,000	2001
CLINTON	08- 260.10	US-127	STP	UTILITIES	$3,000,000	2003
CLINTON	08- 260.10	US-127	STP	CONSTRUCTION	$8,500,000	2004
CLINTON	08- 1015.00	KY-1076	BRX	RIGHT OF WAY	$250,000	2003
CLINTON	08- 1015.00	KY-1076	BRX	UTILITIES	$150,000	2004
CRITTENDEN	01- 187.00	US-641	SP	DESIGN	$400,000	2001
CRITTENDEN	01- 250.01	US-60	SP	RIGHT OF WAY	$2,000,000	2001
CRITTENDEN	01- 250.01	US-60	SP	UTILITIES	$1,000,000	2002
CRITTENDEN	01- 250.01	US-60	SP	CONSTRUCTION	$14,000,000	2004
CRITTENDEN	01- 267.01	US-60	SP	RIGHT OF WAY	$1,200,000	2002
CRITTENDEN	01- 267.01	US-60	SP	UTILITIES	$1,520,000	2003
CRITTENDEN	01- 325.00	KY-91	SP	CONSTRUCTION	$262,000	2001
CRITTENDEN	01- 326.00	KY-91	SP	CONSTRUCTION	$262,000	2002
CRITTENDEN	01- 326.01	KY-91	SP	CONSTRUCTION	$262,000	2003
CRITTENDEN	01- 326.02	KY-91	SP	CONSTRUCTION	$262,000	2004
CUMBERLAND	08- 158.04	KY-61	SP	RIGHT OF WAY	$8,000,000	2004
DAVIESS	02- 179.00	US-231	STP	CONSTRUCTION	$2,500,000	2004
DAVIESS	02- 221.00	KY-2121	SP	DESIGN	$750,000	2002
DAVIESS	02- 221.00	KY-2121	SP	RIGHT OF WAY	$780,000	2004
DAVIESS	02- 287.00	US-60	STP	RIGHT OF WAY	$4,000,000	2003
DAVIESS	02- 287.00	US-60	STP	UTILITIES	$2,500,000	2004
DAVIESS	02- 2012.00	US-60B	SP	CONSTRUCTION	$3,600,000	2001
EDMONSON	03- 140.00	KY-101	SP	RIGHT OF WAY	$750,000	2002
EDMONSON	03- 140.00	KY-101	SP	UTILITIES	$500,000	2002
EDMONSON	03- 140.00	KY-101	SP	CONSTRUCTION	$5,000,000	2004
EDMONSON	03- 141.00	KY-70	SP	RIGHT OF WAY	$300,000	2001
EDMONSON	03- 141.00	KY-70	SP	UTILITIES	$200,000	2001
EDMONSON	03- 141.00	KY-70	SP	CONSTRUCTION	$2,000,000	2002
ELLIOTT	09- 126.00	KY-7	SP	RIGHT OF WAY	$2,000,000	2001
ELLIOTT	09- 126.00	KY-7	SP	UTILITIES	$850,000	2001
ELLIOTT	09- 126.00	KY-7	SP	CONSTRUCTION	$8,000,000	2002
ELLIOTT	09- 126.50	KY-7	STP	RIGHT OF WAY	$3,500,000	2004
ELLIOTT	09- 293.01	KY-7	SP	DESIGN	$400,000	2002
ELLIOTT	09- 293.01	KY-7	SP	RIGHT OF WAY	$1,000,000	2004
ELLIOTT	09- 293.01	KY-7	SP	UTILITIES	$750,000	2004
ELLIOTT	09- 1039.00	KY-706	BRX	RIGHT OF WAY	$20,000	2001
ELLIOTT	09- 1039.00	KY-706	BRX	UTILITIES	$20,000	2001
ELLIOTT	09- 1039.00	KY-706	BRX	CONSTRUCTION	$230,000	2002
ESTILL	10- 363.00	KY-89	SP	RIGHT OF WAY	$2,200,000	2001
ESTILL	10- 363.00	KY-89	SP	UTILITIES	$1,000,000	2003

ESTILL	10- 364.00	KY-82	SP	RIGHT OF WAY	$100,000	2002
ESTILL	10- 364.00	KY-82	SP	UTILITIES	$100,000	2002
ESTILL	10- 364.00	KY-82	SP	CONSTRUCTION	$800,000	2004
ESTILL	10- 1040.00	KY-594	BRX	RIGHT OF WAY	$100,000	2001
ESTILL	10- 1040.00	KY-594	BRX	UTILITIES	$75,000	2001
ESTILL	10- 1040.00	KY-594	BRX	CONSTRUCTION	$250,000	2002
ESTILL	10- 1045.00	CR-5323	BRZ	CONSTRUCTION	$275,000	2001
ESTILL	10- 1053.00	KY-594	BRX	CONSTRUCTION	$150,000	2001
ESTILL	10- 5001.00	KY-89	SP	CONSTRUCTION	$262,700	2001
FAYETTE	07- 122.00	US-25	STP	RIGHT OF WAY	$4,300,000	2001
FAYETTE	07- 122.00	US-25	STP	UTILITIES	$3,000,000	2002
FAYETTE	07- 125.10	KY-4	STP	DESIGN	$200,000	2002
FAYETTE	07- 125.10	KY-4	STP	CONSTRUCTION	$9,000,000	2003
FAYETTE	07- 125.20	KY-4	STP	DESIGN	$200,000	2003
FAYETTE	07- 144.00	US-68	SP	DESIGN	$400,000	2004
FAYETTE	07- 325.01	US-25	SP	UTILITIES	$3,090,000	2001
FAYETTE	07- 325.01	US-25	SP	CONSTRUCTION	$2,500,000	2002
FAYETTE	07- 356.00	KY-169	SP	CONSTRUCTION	$15,000	2001
FAYETTE	07- 357.00	KY-169	SP	CONSTRUCTION	$15,000	2002
FAYETTE	07- 357.01	KY-169	SP	CONSTRUCTION	$15,000	2003
FAYETTE	07- 357.02	KY-169	SP	CONSTRUCTION	$15,000	2004
FAYETTE	07- 362.00	KY-4	STP	DESIGN	$250,000	2002
FAYETTE	07- 996.05	-	SLX	CONSTRUCTION	$5,800,000	2001
FAYETTE	07- 996.06	-	SLX	CONSTRUCTION	$5,800,000	2002
FAYETTE	07- 996.07	-	SLX	CONSTRUCTION	$5,800,000	2003
FAYETTE	07- 996.08	-	SLX	CONSTRUCTION	$5,800,000	2004
FAYETTE	07- 1071.00	CR-9999	BRO	CONSTRUCTION	$715,000	2001
FAYETTE	07- 1088.00	KY-1970	BRX	RIGHT OF WAY	$100,000	2002
FAYETTE	07- 1088.00	KY-1970	BRX	UTILITIES	$40,000	2002
FAYETTE	07- 1088.00	KY-1970	BRX	CONSTRUCTION	$200,000	2004
FAYETTE	07- 5004.00	US-421	SP	DESIGN	$80,000	2002
FAYETTE	07- 5004.00	US-421	SP	CONSTRUCTION	$750,000	2003
FLEMING	09- 146.00	KY-165	SP	RIGHT OF WAY	$40,000	2001
FLEMING	09- 146.00	KY-165	SP	UTILITIES	$15,000	2001
FLEMING	09- 146.00	KY-165	SP	CONSTRUCTION	$375,000	2002
FLEMING	09- 174.01	KY-11	STP	CONSTRUCTION	$8,000,000	2001
FLEMING	09- 174.50	KY-11	STP	DESIGN	$400,000	2001
FLEMING	09- 174.50	KY-11	STP	RIGHT OF WAY	$750,000	2003
FLEMING	09- 174.50	KY-11	STP	UTILITIES	$500,000	2003
FLOYD	12- 108.00	US-23	SP	DESIGN	$150,000	2004
FLOYD	12- 282.00	KY-122	SP	UTILITIES	$200,000	2001
FLOYD	12- 282.00	KY-122	SP	CONSTRUCTION	$2,250,000	2002
FLOYD	12- 293.00	KY-1428	STP	CONSTRUCTION	$3,000,000	2001
FLOYD	12- 301.00	KY-979	SP	UTILITIES	$2,000,000	2001
FLOYD	12- 301.00	KY-979	SP	CONSTRUCTION	$11,000,000	2003
FLOYD	12- 301.10	KY-680	SP	DESIGN	$1,700,000	2001
FLOYD	12- 301.10	KY-680	SP	RIGHT OF WAY	$6,800,000	2002

FLOYD	12- 301.10	KY-680	SP	UTILITIES	$2,000,000	2004
FLOYD	12- 301.20	KY-979	SP	DESIGN	$1,200,000	2002
FLOYD	12- 301.20	KY-979	SP	RIGHT OF WAY	$3,500,000	2003
FLOYD	12- 402.00	KY-3384	SP	CONSTRUCTION	$2,100,000	2001
FLOYD	12- 1039.00	KY-550	BRO	CONSTRUCTION	$1,000,000	2002
FLOYD	12- 1040.00	KY-1428	BRX	CONSTRUCTION	$1,000,000	2001
FLOYD	12- 1041.00	KY-1428	BRX	CONSTRUCTION	$1,000,000	2001
FLOYD	12- 1047.00	CR-1390	BRZ	CONSTRUCTION	$600,000	2001
FLOYD	12- 1060.00	CR-1265	BRZ	DESIGN	$100,000	2001
FLOYD	12- 1060.00	CR-1265	BRZ	RIGHT OF WAY	$60,000	2003
FLOYD	12- 1060.00	CR-1265	BRZ	UTILITIES	$200,000	2003
FLOYD	12- 5004.00	KY-80	SP	RIGHT OF WAY	$20,000	2001
FLOYD	12- 5004.00	KY-80	SP	CONSTRUCTION	$800,000	2002
FLOYD	12- 5007.00	KY-80	SP	DESIGN	$210,000	2002
FLOYD	12- 5007.00	KY-80	SP	RIGHT OF WAY	$45,000	2003
FLOYD	12- 5009.00	KY-321	SP	DESIGN	$200,000	2004
FRANKLIN	05- 97.50	US-60	STP	RIGHT OF WAY	$800,000	2002
FRANKLIN	05- 97.50	US-60	STP	UTILITIES	$500,000	2004
FRANKLIN	05- 305.01	US-421	STP	RIGHT OF WAY	$800,000	2001
FRANKLIN	05- 305.01	US-421	STP	UTILITIES	$600,000	2003
FRANKLIN	05- 305.01	US-421	STP	CONSTRUCTION	$8,000,000	2004
FRANKLIN	05- 372.00	US-460	STP	RIGHT OF WAY	$4,500,000	2001
FRANKLIN	05- 372.00	US-460	STP	UTILITIES	$1,000,000	2003
FRANKLIN	05- 372.00	US-460	STP	CONSTRUCTION	$11,500,000	2004
FRANKLIN	05- 2005.00	I-64	IM	DESIGN	$210,000	2001
FRANKLIN	05- 2005.00	I-64	IM	CONSTRUCTION	$13,900,000	2003
FRANKLIN	05- 2023.00	US-60	SP	DESIGN	$50,000	2004
FRANKLIN	05- 5002.00	US-421	SP	DESIGN	$80,000	2001
FRANKLIN	05- 5002.00	US-421	SP	CONSTRUCTION	$750,000	2002
FRANKLIN	05- 5007.00	KY-1900	SP	DESIGN	$60,000	2004
FULTON	01- 319.00	KY-1354	SP	CONSTRUCTION	$75,000	2001
FULTON	01- 320.00	KY-1354	SP	CONSTRUCTION	$75,000	2002
FULTON	01- 320.01	KY-1354	SP	CONSTRUCTION	$75,000	2003
FULTON	01- 320.02	KY-1354	SP	CONSTRUCTION	$75,000	2004
FULTON	01- 1118.00	US-45	BRO	RIGHT OF WAY	$200,000	2001
FULTON	01- 1118.00	US-45	BRO	UTILITIES	$605,000	2001
FULTON	01- 1118.00	US-45	BRO	CONSTRUCTION	$1,200,000	2003
FULTON	01- 2008.00	PU-9003	SP	CONSTRUCTION	$900,000	2001
GALLATIN	06- 202.00	US-42	SP	RIGHT OF WAY	$250,000	2001
GALLATIN	06- 202.00	US-42	SP	UTILITIES	$100,000	2002
GALLATIN	06- 202.00	US-42	SP	CONSTRUCTION	$5,700,000	2003
GALLATIN	06- 333.00	-	SP	UTILITIES	$600,000	2001
GALLATIN	06- 333.01	-	STP	CONSTRUCTION	$10,000,000	2003
GALLATIN	06- 333.02	-	STP	CONSTRUCTION	$10,000,000	2004
GALLATIN	06- 358.00	KY-35	SP	UTILITIES	$200,000	2001
GALLATIN	06- 358.00	KY-35	SP	CONSTRUCTION	$2,000,000	2002
GALLATIN	06- 2005.00	I-71	IM	CONSTRUCTION	$3,300,000	2004

GALLATIN	06- 2006.00	I-71	IM	CONSTRUCTION	$2,000,000	2004
GALLATIN	06- 2007.00	I-71	IM	CONSTRUCTION	$2,000,000	2004
GARRARD	07- 26.01	US-27	NH	RIGHT OF WAY	$3,500,000	2001
GARRARD	07- 26.01	US-27	NH	UTILITIES	$1,500,000	2002
GARRARD	07- 26.01	US-27	NH	CONSTRUCTION	$12,000,000	2003
GARRARD	07- 26.02	US-27	NH	CONSTRUCTION	$4,000,000	2004
GARRARD	07- 302.03	KY-52	STP	CONSTRUCTION	$3,800,000	2002
GARRARD	07- 302.04	KY-52	STP	CONSTRUCTION	$7,453,000	2001
GRANT	06- 72.02	I-75	IM	CONSTRUCTION	$12,000,000	2001
GRANT	06- 72.03	I-75	NH	CONSTRUCTION	$9,000,000	2001
GRANT	06- 72.04	I-75	IM	CONSTRUCTION	$6,000,000	2002
GRANT	06- 72.05	I-75	NH	CONSTRUCTION	$17,000,000	2002
GRANT	06- 72.12	I-75	IM	CONSTRUCTION	$16,000,000	2004
GRANT	06- 72.13	I-75	NH	CONSTRUCTION	$10,000,000	2004
GRANT	06- 339.00	I-75	STP	CONSTRUCTION	$7,000,000	2002
GRANT	06- 345.00	-	SP	CONSTRUCTION	$9,200,000	2001
GRANT	06- 345.10	-	SP	UTILITIES	$250,000	2001
GRANT	06- 345.10	-	SP	CONSTRUCTION	$2,500,000	2003
GRANT	06- 5000.00	US-25	SP	CONSTRUCTION	$282,000	2001
GRAYSON	04- 122.00	KY-259	SP	DESIGN	$500,000	2004
GRAYSON	04- 193.00	US-62	SP	RIGHT OF WAY	$500,000	2001
GRAYSON	04- 193.00	US-62	SP	UTILITIES	$300,000	2002
GRAYSON	04- 193.00	US-62	SP	CONSTRUCTION	$3,000,000	2004
GRAYSON	04- 308.00	-	STP	DESIGN	$1,200,000	2003
GRAYSON	04- 1013.01	KY-259	STP	CONSTRUCTION	$10,700,000	2001
GRAYSON	04- 2005.00	WK-9001	NH	DESIGN	$25,000	2002
GRAYSON	04- 2005.00	WK-9001	NH	CONSTRUCTION	$1,200,000	2003
GRAYSON	04- 2008.00	WK-9001	STP	DESIGN	$70,000	2003
GRAYSON	04- 2008.00	WK-9001	STP	CONSTRUCTION	$4,100,000	2004
GRAYSON	04- 2009.00	WK-9001	STP	DESIGN	$70,000	2003
GRAYSON	04- 2009.00	WK-9001	STP	CONSTRUCTION	$4,000,000	2004
GREEN	04- 310.00	-	STP	DESIGN	$800,000	2003
GREENUP	09- 109.00	KY-8S	STP	CONSTRUCTION	$2,500,000	2004
GREENUP	09- 130.00	KY-1172	SP	CONSTRUCTION	$600,000	2001
GREENUP	09- 132.00	KY-2	SP	DESIGN	$500,000	2004
GREENUP	09- 212.11	-	SP	CONSTRUCTION	$20,000,000	2001
GREENUP	09- 212.20	-	SP	CONSTRUCTION	$8,000,000	2001
GREENUP	09- 212.21	-	SP	CONSTRUCTION	$12,000,000	2002
GREENUP	09- 212.30	-	SP	CONSTRUCTION	$19,000,000	2003
GREENUP	09- 1028.00	KY-503	BRO	CONSTRUCTION	$630,000	2002
GREENUP	09- 1038.00	KY-2541	BRX	RIGHT OF WAY	$70,000	2002
GREENUP	09- 1038.00	KY-2541	BRX	UTILITIES	$30,000	2002
GREENUP	09- 5001.00	KY-503	SP	RIGHT OF WAY	$100,000	2001
GREENUP	09- 5001.00	KY-503	SP	CONSTRUCTION	$570,000	2002
GREENUP	09- 5006.00	KY-1	SP	DESIGN	$35,000	2003
GREENUP	09- 5006.00	KY-1	SP	RIGHT OF WAY	$10,000	2004
GREENUP	09- 5006.00	KY-1	SP	UTILITIES	$20,000	2004

HANCOCK	02- 125.00	US-60	STP	DESIGN	$150,000	2004
HANCOCK	02- 216.00	CR-1102	BRZ	DESIGN	$50,000	2001
HANCOCK	02- 216.00	CR-1102	BRZ	RIGHT OF WAY	$50,000	2003
HANCOCK	02- 216.00	CR-1102	BRZ	UTILITIES	$50,000	2003
HANCOCK	02- 216.00	CR-1102	BRZ	CONSTRUCTION	$200,000	2004
HANCOCK	02- 2022.00	US-60	SP	CONSTRUCTION	$1,210,000	2004
HARDIN	04- 189.00	US-31W	SP	CONSTRUCTION	$500,000	2001
HARDIN	04- 190.00	US-31W	SP	UTILITIES	$1,750,000	2001
HARDIN	04- 190.00	US-31W	SP	CONSTRUCTION	$1,720,000	2002
HARDIN	04- 297.10	KY-313	STP	DESIGN	$1,500,000	2002
HARDIN	04- 297.10	KY-313	STP	RIGHT OF WAY	$4,500,000	2004
HARDIN	04- 2001.00	I-65	IM	CONSTRUCTION	$1,800,000	2002
HARDIN	04- 2003.00	US-31W	SP	DESIGN	$100,000	2002
HARDIN	04- 2003.00	US-31W	SP	CONSTRUCTION	$4,400,000	2004
HARDIN	04- 2007.00	US-31WB	SP	DESIGN	$85,000	2003
HARDIN	04- 5002.00	US-31W	SP	CONSTRUCTION	$750,000	2002
HARDIN	04- 5003.00	BG-9002	SP	DESIGN	$65,000	2002
HARDIN	04- 5003.00	BG-9002	SP	CONSTRUCTION	$500,000	2003
HARDIN	04- 5004.00	BG-9002	SP	DESIGN	$65,000	2002
HARDIN	04- 5004.00	BG-9002	SP	RIGHT OF WAY	$25,000	2002
HARDIN	04- 5004.00	BG-9002	SP	CONSTRUCTION	$750,000	2003
HARDIN	04- 5005.00	I-65	SP	DESIGN	$100,000	2003
HARLAN	11- 254.00	US-421	SP	UTILITIES	$500,000	2001
HARLAN	11- 254.00	US-421	SP	CONSTRUCTION	$21,000,000	2002
HARLAN	11- 264.20	US-421	SP	CONSTRUCTION	$14,200,000	2001
HARLAN	11- 264.30	US-421	SP	CONSTRUCTION	$10,000,000	2001
HARLAN	11- 264.31	US-421	SP	CONSTRUCTION	$19,000,000	2002
HARLAN	11- 267.11	US-421	SP	DESIGN	$500,000	2003
HARLAN	11- 269.00	US-421	SP	RIGHT OF WAY	$5,500,000	2002
HARLAN	11- 269.00	US-421	SP	UTILITIES	$300,000	2004
HARLAN	11- 1036.00	KY-215	BRX	CONSTRUCTION	$470,000	2001
HARLAN	11- 1038.00	KY-215	BRX	CONSTRUCTION	$700,000	2001
HARLAN	11- 1049.00	KY-1601	BRX	RIGHT OF WAY	$50,000	2002
HARLAN	11- 1049.00	KY-1601	BRX	UTILITIES	$50,000	2002
HARLAN	11- 5003.00	KY-38	SP	DESIGN	$180,000	2002
HARLAN	11- 5003.00	KY-38	SP	RIGHT OF WAY	$40,000	2003
HARLAN	11- 5003.00	KY-38	SP	UTILITIES	$15,000	2003
HARLAN	11- 5003.00	KY-38	SP	CONSTRUCTION	$1,500,000	2004
HARLAN	11- 5004.00	KY-38	SP	DESIGN	$180,000	2002
HARLAN	11- 5004.00	KY-38	SP	RIGHT OF WAY	$50,000	2003
HARLAN	11- 5004.00	KY-38	SP	UTILITIES	$20,000	2003
HARRISON	06- 119.02	US-27	SP	RIGHT OF WAY	$2,400,000	2002
HARRISON	06- 119.02	US-27	SP	UTILITIES	$1,000,000	2003
HARRISON	06- 1043.00	CR-1062	BRZ	DESIGN	$200,000	2002
HART	04- 11.00	I-65	IM	CONSTRUCTION	$4,500,000	2001
HART	04- 11.10	I-65	IM	CONSTRUCTION	$4,500,000	2001
HART	04- 194.00	US-31W	SP	RIGHT OF WAY	$150,000	2001

HART	04- 194.00	US-31W	SP	UTILITIES	$100,000	2002
HART	04- 194.00	US-31W	SP	CONSTRUCTION	$600,000	2004
HENDERSON	02- 69.00	I-69	SP	DESIGN	$600,000	2002
HENDERSON	02- 79.10	US-60	SP	DESIGN	$1,200,000	2002
HENDERSON	02- 79.10	US-60	STP	RIGHT OF WAY	$2,500,000	2003
HENDERSON	02- 79.02	US-60	STP	RIGHT OF WAY	$4,000,000	2002
HENDERSON	02- 79.02	US-60	STP	UTILITIES	$2,000,000	2003
HENDERSON	02- 101.00	US-60	SAF	CONSTRUCTION	$3,500,000	2002
HENDERSON	02- 126.00	US-60	STP	DESIGN	$200,000	2001
HENDERSON	02- 126.00	US-60	STP	RIGHT OF WAY	$1,000,000	2003
HENDERSON	02- 380.00	US-60	SP	CONSTRUCTION	$600,000	2001
HENDERSON	02- 5000.00	AU-9005	SP	CONSTRUCTION	$285,500	2001
HENDERSON	02- 5001.00	AU-9005	SP	CONSTRUCTION	$350,000	2001
HENDERSON	02- 5004.00	AU-9005	SP	RIGHT OF WAY	$10,000	2001
HENDERSON	02- 5004.00	AU-9005	SP	CONSTRUCTION	$248,500	2002
HENRY	05- 2010.00	I-71	IM	CONSTRUCTION	$1,000,000	2002
HENRY	05- 5000.00	KY-389	SP	CONSTRUCTION	$628,700	2002
HICKMAN	01- 182.00	US-51	STP	DESIGN	$700,000	2002
HICKMAN	01- 1114.00	KY-1698	BRZ	CONSTRUCTION	$300,000	2002
HOPKINS	02- 211.00	KY-281	SP	UTILITIES	$810,000	2001
HOPKINS	02- 211.00	KY-281	SP	CONSTRUCTION	$3,200,000	2002
HOPKINS	02- 215.00	KY-70	SP	RIGHT OF WAY	$2,800,000	2001
HOPKINS	02- 215.00	KY-70	SP	UTILITIES	$2,650,000	2002
HOPKINS	02- 2007.00	PE-9004	SP	DESIGN	$80,000	2001
HOPKINS	02- 2007.00	PE-9004	STP	CONSTRUCTION	$5,500,000	2003
HOPKINS	02- 2010.00	PE-9004	SP	DESIGN	$200,000	2003
JACKSON	11- 113.00	US-421	STP	DESIGN	$200,000	2003
JEFFERSON	05- 15.00	I-264	IM	CONSTRUCTION	$3,500,000	2004
JEFFERSON	05- 21.00	I-265	IM	UTILITIES	$1,000,000	2002
JEFFERSON	05- 21.00	I-265	IM	CONSTRUCTION	$20,000,000	2003
JEFFERSON	05- 23.00	I-64	IM	DESIGN	$1,500,000	2001
JEFFERSON	05- 23.00	I-64	IM	CONSTRUCTION	$7,000,000	2003
JEFFERSON	05- 41.00	I-265	IM	RIGHT OF WAY	$2,000,000	2002
JEFFERSON	05- 41.00	I-265	IM	UTILITIES	$1,000,000	2003
JEFFERSON	05- 52.00	I-64	IM	RIGHT OF WAY	$2,500,000	2003
JEFFERSON	05- 52.00	I-64	IM	UTILITIES	$300,000	2003
JEFFERSON	05- 52.00	I-64	IM	CONSTRUCTION	$8,000,000	2004
JEFFERSON	05- 48.01	I-71	NH	RIGHT OF WAY	$4,000,000	2002
JEFFERSON	05- 48.01	I-71	NH	UTILITIES	$2,000,000	2004
JEFFERSON	05- 76.01	-	STP	CONSTRUCTION	$1,500,000	2002
JEFFERSON	05- 76.02	-	SLO	CONSTRUCTION	$4,750,000	2001
JEFFERSON	05- 91.02	-	SLO	CONSTRUCTION	$4,000,000	2003
JEFFERSON	05- 93.01	KY-1020	SLO	CONSTRUCTION	$3,750,000	2001
JEFFERSON	05- 93.02	KY-1020	SLO	CONSTRUCTION	$6,214,000	2002
JEFFERSON	05- 93.03	KY-1020	SLO	CONSTRUCTION	$2,036,000	2003
JEFFERSON	05- 110.00	US-31	NH	CONSTRUCTION	$2,500,000	2004
JEFFERSON	05- 118.02	-	SP	DESIGN	$3,000,000	2001

JEFFERSON	05- 118.10	-	SP	DESIGN	$6,000,000	2002
JEFFERSON	05- 118.11	-	SP	DESIGN	$6,000,000	2003
JEFFERSON	05- 118.20	-	SP	RIGHT OF WAY	$6,000,000	2004
JEFFERSON	05- 136.00	I-265	NH	CONSTRUCTION	$3,500,000	2004
JEFFERSON	05- 247.10	KY-1450	SP	UTILITIES	$3,700,000	2003
JEFFERSON	05- 247.20	KY-1450	SP	DESIGN	$300,000	2002
JEFFERSON	05- 261.00	-	SLO	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 322.00	-	SLO	CONSTRUCTION	$3,750,000	2001
JEFFERSON	05- 322.02	-	SLO	CONSTRUCTION	$10,087,000	2002
JEFFERSON	05- 323.01	KY-1931	SP	RIGHT OF WAY	$4,000,000	2002
JEFFERSON	05- 323.01	KY-1931	SP	UTILITIES	$3,500,000	2004
JEFFERSON	05- 325.01	KY-1447	SP	UTILITIES	$6,500,000	2001
JEFFERSON	05- 325.01	KY-1447	STP	CONSTRUCTION	$15,000,000	2002
JEFFERSON	05- 342.02	-	CM	CONSTRUCTION	$1,800,000	2002
JEFFERSON	05- 344.00	KY-1747	SP	DESIGN	$1,500,000	2003
JEFFERSON	05- 373.00	KY-1819	SP	DESIGN	$700,000	2002
JEFFERSON	05- 381.00	-	SLO	CONSTRUCTION	$444,000	2001
JEFFERSON	05- 382.00	-	SLO	CONSTRUCTION	$511,000	2002
JEFFERSON	05- 383.00	-	SLO	CONSTRUCTION	$588,000	2003
JEFFERSON	05- 384.00	-	SLO	CONSTRUCTION	$676,000	2004
JEFFERSON	05- 385.00	-	SLO	CONSTRUCTION	$2,000,000	2003
JEFFERSON	05- 386.00	-	SLO	RIGHT OF WAY	$250,000	2001
JEFFERSON	05- 386.00	-	SLO	UTILITIES	$375,000	2003
JEFFERSON	05- 386.00	-	SLO	CONSTRUCTION	$1,500,000	2004
JEFFERSON	05- 387.00	-	SLO	CONSTRUCTION	$1,000,000	2003
JEFFERSON	05- 430.02	KY-1020	SLO	CONSTRUCTION	$4,300,000	2003
JEFFERSON	05- 430.03	KY-1020	SP	CONSTRUCTION	$1,000,000	2001
JEFFERSON	05- 965.08	-	SLO	CONSTRUCTION	$14,300,000	2004
JEFFERSON	05- 972.00	KY-42	SP	RIGHT OF WAY	$250,000	2002
JEFFERSON	05- 972.00	KY-42	SP	UTILITIES	$300,000	2002
JEFFERSON	05- 982.00	-	SLO	RIGHT OF WAY	$150,000	2003
JEFFERSON	05- 982.00	-	SLO	UTILITIES	$100,000	2004
JEFFERSON	05- 982.00	-	SLO	CONSTRUCTION	$400,000	2004
JEFFERSON	05- 1006.00	CR-9999	BRZ	CONSTRUCTION	$275,000	2002
JEFFERSON	05- 1012.05	-	CM	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 1012.06	-	CM	CONSTRUCTION	$1,500,000	2002
JEFFERSON	05- 1012.07	-	CM	CONSTRUCTION	$5,000,000	2003
JEFFERSON	05- 1012.08	-	CM	CONSTRUCTION	$3,400,000	2004
JEFFERSON	05- 1018.00	CR-9999	BRZ	RIGHT OF WAY	$100,000	2001
JEFFERSON	05- 1018.00	CR-9999	BRZ	UTILITIES	$75,000	2001
JEFFERSON	05- 2000.00	I-264	IM	DESIGN	$300,000	2001
JEFFERSON	05- 2000.00	I-264	IM	CONSTRUCTION	$10,000,000	2002
JEFFERSON	05- 2000.01	I-264	IM	CONSTRUCTION	$10,000,000	2003
JEFFERSON	05- 2001.00	I-264	IM	CONSTRUCTION	$8,700,000	2001
JEFFERSON	05- 2002.00	I-265	IM	DESIGN	$20,000	2002
JEFFERSON	05- 2002.00	I-265	IM	CONSTRUCTION	$6,200,000	2004
JEFFERSON	05- 2004.00	I-265	IM	CONSTRUCTION	$2,000,000	2001

JEFFERSON	05- 2007.00	I-64	IM	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 2024.00	KY-841	SP	CONSTRUCTION	$1,820,000	2001
JEFFERSON	05- 2026.00	US-31W	SP	CONSTRUCTION	$350,000	2001
JEFFERSON	05- 2027.00	KY-1020	SP	CONSTRUCTION	$500,000	2001
JESSAMINE	07- 87.01	-	SP	DESIGN	$500,000	2001
JESSAMINE	07- 87.02	-	SP	DESIGN	$400,000	2003
JESSAMINE	07- 87.02	-	STP	RIGHT OF WAY	$2,500,000	2004
JESSAMINE	07- 318.01	US-68	STP	RIGHT OF WAY	$2,500,000	2003
JESSAMINE	07- 318.01	US-68	STP	UTILITIES	$1,000,000	2004
JESSAMINE	07- 1078.00	KY-29	BRX	CONSTRUCTION	$850,000	2001
JESSAMINE	07- 5006.00	US-68	SP	DESIGN	$60,000	2003
JOHNSON	12- 294.00	KY-40	SP	CONSTRUCTION	$3,600,000	2001
JOHNSON	12- 1036.00	KY-40	BRO	CONSTRUCTION	$2,500,000	2002
JOHNSON	12- 5002.00	KY-1100	SP	CONSTRUCTION	$350,000	2002
JOHNSON	12- 5008.00	KY-321	SP	DESIGN	$220,000	2002
JOHNSON	12- 5008.00	KY-321	SP	RIGHT OF WAY	$60,000	2003
KENTON	06- 71.02	KY-1303	SNK	CONSTRUCTION	$8,000,000	2001
KENTON	06- 71.03	KY-1303	SNK	RIGHT OF WAY	$4,000,000	2002
KENTON	06- 71.03	KY-1303	SNK	UTILITIES	$1,000,000	2004
KENTON	06- 273.00	KY-1120	SNK	CONSTRUCTION	$4,500,000	2001
KENTON	06- 286.01	-	SP	RIGHT OF WAY	$250,000	2001
KENTON	06- 286.01	-	SP	UTILITIES	$200,000	2002
KENTON	06- 286.01	-	SP	CONSTRUCTION	$9,000,000	2004
KENTON	06- 300.00	-	STP	DESIGN	$2,100,000	2001
KENTON	06- 300.00	-	STP	CONSTRUCTION	$14,000,000	2002
KENTON	06- 313.10	KY-17	SP	UTILITIES	$1,000,000	2001
KENTON	06- 313.10	KY-17	SP	CONSTRUCTION	$10,000,000	2002
KENTON	06- 344.00	KY-16	SP	RIGHT OF WAY	$7,900,000	2002
KENTON	06- 344.00	KY-16	SNK	UTILITIES	$8,300,000	2003
KENTON	06- 1030.00	KY-8	BRO	UTILITIES	$1,300,000	2001
KENTON	06- 1030.00	KY-8	BRO	CONSTRUCTION	$2,800,000	2002
KENTON	06- 2003.00	I-275	IM	CONSTRUCTION	$1,000,000	2002
KENTON	06- 5002.00	KY-1072	SP	RIGHT OF WAY	$20,000	2001
KENTON	06- 5002.00	KY-1072	SP	CONSTRUCTION	$450,000	2002
KENTON	06- 5007.00	I-275	SP	DESIGN	$150,000	2002
KENTON	06- 5007.00	I-275	SP	CONSTRUCTION	$1,500,000	2004
KENTON	06- 5008.00	I-275	SP	DESIGN	$175,000	2002
KNOTT	12- 2000.00	KY-80	SP	DESIGN	$25,000	2004
KNOTT	12- 5000.00	KY-80	SP	CONSTRUCTION	$417,000	2001
KNOTT	12- 5001.00	KY-550	SP	RIGHT OF WAY	$5,000	2001
KNOTT	12- 5001.00	KY-550	SP	CONSTRUCTION	$173,900	2002
KNOTT	12- 5006.00	KY-80	SP	DESIGN	$210,000	2002
KNOTT	12- 5006.00	KY-80	SP	RIGHT OF WAY	$30,000	2003
KNOTT	12- 5006.00	KY-80	SP	CONSTRUCTION	$1,750,000	2004
KNOX	11- 112.00	-	SP	DESIGN	$400,000	2003
KNOX	11- 218.00	KY-11	SP	RIGHT OF WAY	$150,000	2001
KNOX	11- 218.00	KY-11	SP	UTILITIES	$50,000	2001

KNOX	11- 218.00	KY-11	SP	CONSTRUCTION	$405,000	2002
LARUE	04- 121.01	KY-210	STP	CONSTRUCTION	$8,000,000	2001
LARUE	04- 121.02	KY-210	STP	CONSTRUCTION	$12,000,000	2002
LARUE	04- 1047.00	KY-470	BRX	CONSTRUCTION	$350,000	2002
LARUE	04- 5006.00	KY-84	SP	DESIGN	$60,000	2004
LAUREL	11- 8.00	I-75	NH	CONSTRUCTION	$14,000,000	2003
LAUREL	11- 9.01	I-75	NH	CONSTRUCTION	$10,000,000	2003
LAUREL	11- 9.02	I-75	NH	CONSTRUCTION	$5,000,000	2004
LAUREL	11- 15.00	I-75	STP	CONSTRUCTION	$16,000,000	2003
LAUREL	11- 15.01	I-75	SP	CONSTRUCTION	$7,500,000	2003
LAUREL	11- 15.02	I-75	SP	CONSTRUCTION	$13,500,000	2004
LAUREL	11- 278.10	KY-30	SP	CONSTRUCTION	$10,000,000	2001
LAUREL	11- 278.12	KY-30	SP	CONSTRUCTION	$7,000,000	2003
LAUREL	11- 278.20	KY-30	SP	DESIGN	$2,500,000	2001
LAUREL	11- 278.20	KY-30	SP	RIGHT OF WAY	$4,000,000	2003
LAUREL	11- 1047.00	KY-1305	BRX	CONSTRUCTION	$200,000	2002
LAUREL	11- 2004.00	DB-9006	SP	CONSTRUCTION	$7,500,000	2002
LAUREL	11- 2004.01	DB-9006	SP	CONSTRUCTION	$8,700,000	2004
LAUREL	11- 2007.00	US-25E	SP	DESIGN	$50,000	2003
LAWRENCE	12- 3.00	US-23	NH	RIGHT OF WAY	$1,700,000	2001
LAWRENCE	12- 3.00	US-23	NH	UTILITIES	$750,000	2003
LAWRENCE	12- 3.00	US-23	NH	CONSTRUCTION	$8,500,000	2004
LAWRENCE	12- 284.00	KY-32	STP	DESIGN	$600,000	2004
LAWRENCE	12- 1033.00	KY-707	BRZ	CONSTRUCTION	$250,000	2002
LAWRENCE	12- 1034.00	KY-707	BRZ	CONSTRUCTION	$250,000	2002
LAWRENCE	12- 1063.00	CR-1124	BRZ	CONSTRUCTION	$500,000	2001
LEE	10- 292.00	KY-11	SP	DESIGN	$1,200,000	2002
LEE	10- 1056.00	CR-1147	BRZ	DESIGN	$75,000	2002
LEE	10- 1056.00	CR-1147	BRZ	RIGHT OF WAY	$50,000	2004
LEE	10- 1056.00	CR-1147	BRZ	UTILITIES	$50,000	2004
LESLIE	11- 12.00	US-421	STP	DESIGN	$500,000	2002
LESLIE	11- 119.00	DB-9006	SP	DESIGN	$400,000	2003
LETCHER	12- 121.00	KY-15	SP	DESIGN	$150,000	2003
LETCHER	12- 311.10	US-119	APD	CONSTRUCTION	$10,000,000	2001
LETCHER	12- 311.11	US-119	APD	CONSTRUCTION	$15,000,000	2003
LETCHER	12- 311.12	US-119	APD	CONSTRUCTION	$21,000,000	2004
LETCHER	12- 314.00	US-119	APD	DESIGN	$3,500,000	2001
LETCHER	12- 314.00	US-119	APD	RIGHT OF WAY	$4,152,000	2003
LETCHER	12- 314.00	US-119	APD	UTILITIES	$1,725,000	2004
LETCHER	12- 1059.00	CR-1371	BRZ	CONSTRUCTION	$550,000	2002
LETCHER	12- 1061.00	KY-113	BRX	CONSTRUCTION	$600,000	2002
LETCHER	12- 5003.00	KY-588	SP	CONSTRUCTION	$400,000	2002
LINCOLN	08- 161.00	US-150	STP	UTILITIES	$200,000	2001
LINCOLN	08- 161.00	US-150	STP	CONSTRUCTION	$4,500,000	2002
LINCOLN	08- 163.00	US-150	SP	DESIGN	$1,500,000	2001
LINCOLN	08- 163.00	US-150	STP	RIGHT OF WAY	$3,000,000	2003
LINCOLN	08- 5006.00	US-27	SP	DESIGN	$60,000	2003

LINCOLN	08- 5006.00	US-27	SP	RIGHT OF WAY	$50,000	2004
LINCOLN	08- 5006.00	US-27	SP	UTILITIES	$60,000	2004
LIVINGSTON	01- 184.00	US-60	SP	DESIGN	$750,000	2002
LIVINGSTON	01- 184.00	US-60	STP	RIGHT OF WAY	$1,250,000	2004
LIVINGSTON	01- 330.00	US-60	SP	DESIGN	$850,000	2003
LIVINGSTON	01- 1123.00	KY-952	BRX	CONSTRUCTION	$750,000	2001
LIVINGSTON	01- 2003.00	I-24	IM	CONSTRUCTION	$800,000	2002
LIVINGSTON	01- 5001.00	US-60	SP	RIGHT OF WAY	$10,000	2001
LIVINGSTON	01- 5001.00	US-60	SP	CONSTRUCTION	$350,000	2001
LOGAN	03- 148.00	-	SP	RIGHT OF WAY	$1,500,000	2002
LOGAN	03- 148.00	-	SP	UTILITIES	$500,000	2004
LYON	01- 307.01	US-62	SP	RIGHT OF WAY	$4,000,000	2002
LYON	01- 307.01	US-62	SP	UTILITIES	$4,000,000	2004
LYON	01- 5002.00	KY-295	SP	RIGHT OF WAY	$20,000	2001
LYON	01- 5002.00	KY-295	SP	UTILITIES	$15,000	2001
LYON	01- 5002.00	KY-295	SP	CONSTRUCTION	$450,000	2002
MADISON	07- 28.10	CR-1206	SP	RIGHT OF WAY	$350,000	2001
MADISON	07- 28.10	CR-1206	SP	UTILITIES	$2,400,000	2001
MADISON	07- 28.10	CR-1206	SP	CONSTRUCTION	$3,000,000	2002
MADISON	07- 214.00	KY-169	SP	RIGHT OF WAY	$1,500,000	2001
MADISON	07- 214.00	KY-169	SP	UTILITIES	$1,500,000	2003
MADISON	07- 214.00	KY-169	SP	CONSTRUCTION	$6,500,000	2004
MADISON	07- 309.00	KY-52	STP	UTILITIES	$1,710,000	2001
MADISON	07- 309.00	KY-52	STP	CONSTRUCTION	$9,250,000	2002
MADISON	07- 5003.00	KY-52	SP	DESIGN	$150,000	2001
MADISON	07- 5003.00	KY-52	SP	CONSTRUCTION	$1,250,000	2002
MAGOFFIN	10- 121.00	US-460	SP	DESIGN	$1,000,000	2003
MAGOFFIN	10- 280.00	US-460	STP	CONSTRUCTION	$4,500,000	2001
MAGOFFIN	12- 1.10	KY-114	NH	RIGHT OF WAY	$2,000,000	2001
MAGOFFIN	12- 1.10	KY-114	NH	UTILITIES	$1,500,000	2003
MAGOFFIN	12- 1.10	KY-114	NH	CONSTRUCTION	$15,000,000	2004
MARION	04- 192.00	US-68	SP	DESIGN	$1,200,000	2001
MARION	04- 192.00	US-68	SP	RIGHT OF WAY	$2,000,000	2003
MARION	04- 309.00	KY-49	STP	DESIGN	$200,000	2003
MARSHALL	01- 180.70	US-68	BRO	UTILITIES	$150,000	2001
MARSHALL	01- 180.70	US-68	BRO	CONSTRUCTION	$7,000,000	2004
MARSHALL	01- 1117.00	KY-58	BRO	RIGHT OF WAY	$250,000	2001
MARSHALL	01- 1117.00	KY-58	BRO	UTILITIES	$1,275,000	2001
MARSHALL	01- 1117.00	KY-58	BRO	CONSTRUCTION	$2,000,000	2003
MARSHALL	01- 1121.00	US-68	BRO	CONSTRUCTION	$2,500,000	2002
MARSHALL	01- 1130.00	KY-1824	BRX	RIGHT OF WAY	$75,000	2001
MARSHALL	01- 1130.00	KY-1824	BRX	UTILITIES	$295,000	2001
MARSHALL	01- 1130.00	KY-1824	BRX	CONSTRUCTION	$500,000	2003
MARSHALL	01- 5000.00	KY-80	SP	CONSTRUCTION	$150,000	2001
MARSHALL	01- 5003.00	PU-9003	SP	DESIGN	$60,000	2001
MARSHALL	01- 5003.00	PU-9003	SP	RIGHT OF WAY	$10,000	2002
MARSHALL	01- 5003.00	PU-9003	SP	CONSTRUCTION	$450,000	2004

MARTIN	12- 154.01	KY-40	SP	CONSTRUCTION	$4,000,000	2001
MARTIN	12- 154.02	KY-40	STP	CONSTRUCTION	$11,000,000	2001
MARTIN	12- 154.03	KY-40	STP	CONSTRUCTION	$25,000,000	2002
MARTIN	12- 154.04	KY-40	STP	CONSTRUCTION	$15,000,000	2003
MARTIN	12- 154.10	KY-40	STP	RIGHT OF WAY	$3,000,000	2001
MARTIN	12- 154.10	KY-40	STP	UTILITIES	$3,000,000	2003
MARTIN	12- 285.00	KY-40	SP	DESIGN	$250,000	2004
MARTIN	12- 1052.00	CR-9999	BRZ	CONSTRUCTION	$450,000	2002
MASON	09- 108.00	US-62	STP	CONSTRUCTION	$6,000,000	2004
MASON	09- 124.01	US-68	NH	RIGHT OF WAY	$4,000,000	2002
MASON	09- 124.01	US-68	NH	UTILITIES	$3,500,000	2003
MASON	09- 124.01	US-68	NH	CONSTRUCTION	$17,000,000	2004
MASON	09- 145.00	-	SP	RIGHT OF WAY	$400,000	2001
MASON	09- 145.00	-	SP	UTILITIES	$300,000	2001
MASON	09- 145.00	-	SP	CONSTRUCTION	$1,150,000	2002
MASON	09- 5000.00	KY-10	SP	CONSTRUCTION	$1,740,000	2001
MCCRACKEN	01- 115.10	US-60	SP	DESIGN	$400,000	2001
MCCRACKEN	01- 115.10	US-60	SP	RIGHT OF WAY	$1,250,000	2003
MCCRACKEN	01- 186.00	US-45	STP	CONSTRUCTION	$2,500,000	2004
MCCRACKEN	01- 260.00	US-62	STP	UTILITIES	$3,400,000	2001
MCCRACKEN	01- 260.00	US-62	STP	CONSTRUCTION	$3,000,000	2002
MCCRACKEN	01- 310.01	-	SP	RIGHT OF WAY	$3,000,000	2002
MCCRACKEN	01- 310.01	-	SP	UTILITIES	$2,000,000	2004
MCCRACKEN	01- 1115.00	US-60	BRO	RIGHT OF WAY	$5,000,000	2001
MCCRACKEN	01- 1115.00	US-60	BRO	UTILITIES	$3,000,000	2003
MCCRACKEN	01- 1124.00	KY-998	BRX	RIGHT OF WAY	$500,000	2001
MCCRACKEN	01- 1124.00	KY-998	BRX	UTILITIES	$1,000,000	2001
MCCRACKEN	01- 1124.00	KY-998	BRX	CONSTRUCTION	$2,000,000	2002
MCCREARY	08- 262.01	US-27	SP	CONSTRUCTION	$3,500,000	2001
MCCREARY	08- 1012.00	CR-5236	BRZ	RIGHT OF WAY	$200,000	2001
MCCREARY	08- 1012.00	CR-5236	BRZ	UTILITIES	$150,000	2001
MCLEAN	02- 9.00	US-431	STP	RIGHT OF WAY	$600,000	2002
MCLEAN	02- 9.00	US-431	STP	UTILITIES	$400,000	2004
MCLEAN	02- 1049.00	KY-136	BRO	RIGHT OF WAY	$50,000	2002
MCLEAN	02- 1049.00	KY-136	BRO	UTILITIES	$50,000	2002
MCLEAN	02- 1049.00	KY-136	BRO	CONSTRUCTION	$250,000	2004
MEADE	04- 53.00	KY-313	SP	DESIGN	$1,800,000	2001
MEADE	04- 53.01	KY-313	STP	RIGHT OF WAY	$6,500,000	2003
MEADE	04- 2006.00	US-31W	SP	DESIGN	$30,000	2001
MEADE	04- 2006.00	US-31W	SP	CONSTRUCTION	$1,200,000	2003
MEADE	04- 5001.00	KY-230	SP	CONSTRUCTION	$325,000	2002
MENIFEE	10- 117.01	US-460	STP	RIGHT OF WAY	$2,000,000	2002
MENIFEE	10- 117.01	US-460	STP	UTILITIES	$1,500,000	2004
MENIFEE	10- 1054.00	KY-713	BRX	RIGHT OF WAY	$600,000	2001
MENIFEE	10- 1054.00	KY-713	BRX	UTILITIES	$75,000	2001
MENIFEE	10- 1054.00	KY-713	BRX	CONSTRUCTION	$360,000	2002
MENIFEE	10- 5008.00	KY-1274	SP	DESIGN	$100,000	2004

MERCER	07- 1075.00	KY-152	BRO	RIGHT OF WAY	$150,000	2001
MERCER	07- 1075.00	KY-152	BRO	UTILITIES	$75,000	2001
MERCER	07- 1089.00	KY-1988	BRX	RIGHT OF WAY	$50,000	2002
MERCER	07- 1089.00	KY-1988	BRX	UTILITIES	$30,000	2003
MERCER	07- 1089.00	KY-1988	BRX	CONSTRUCTION	$150,000	2004
METCALFE	03- 1050.00	KY-640	BRX	CONSTRUCTION	$350,000	2002
MONROE	03- 276.01	KY-163	SP	DESIGN	$800,000	2001
MONROE	03- 276.01	KY-163	STP	RIGHT OF WAY	$2,500,000	2003
MONTGOMERY	07- 83.00	US-60	STP	CONSTRUCTION	$600,000	2001
MONTGOMERY	07- 124.00	US-460	SP	DESIGN	$400,000	2004
MONTGOMERY	07- 317.00	KY-11	SP	DESIGN	$1,100,000	2002
MONTGOMERY	07- 320.00	US-460	STP	CONSTRUCTION	$6,000,000	2001
MONTGOMERY	07- 1079.00	KY-599	BRX	CONSTRUCTION	$350,000	2002
MONTGOMERY	07- 2000.00	I-64	IM	DESIGN	$250,000	2001
MONTGOMERY	07- 2000.00	I-64	IM	CONSTRUCTION	$10,000,000	2001
MONTGOMERY	07- 2000.01	I-64	IM	CONSTRUCTION	$7,000,000	2002
MORGAN	10- 130.00	US-460	SP	RIGHT OF WAY	$650,000	2002
MORGAN	10- 130.00	US-460	SP	UTILITIES	$120,000	2004
MORGAN	10- 291.00	KY-7	SP	CONSTRUCTION	$7,000,000	2001
MORGAN	10- 1037.00	US-460	BRO	CONSTRUCTION	$425,000	2002
MUHLENBERG	02- 313.00	KY-181	SP	DESIGN	$800,000	2002
MUHLENBERG	02- 1015.00	CR-1412	BRZ	CONSTRUCTION	$225,000	2001
MUHLENBERG	02- 2005.00	WK-9001	SP	CONSTRUCTION	$4,000,000	2001
MUHLENBERG	02- 2006.00	WK-9001	SP	CONSTRUCTION	$3,500,000	2002
MUHLENBERG	02- 5006.00	US-431	SP	RIGHT OF WAY	$20,000	2001
MUHLENBERG	02- 5006.00	US-431	SP	UTILITIES	$10,000	2001
MUHLENBERG	02- 5006.00	US-431	SP	CONSTRUCTION	$120,000	2002
NELSON	04- 184.00	US-62	STP	RIGHT OF WAY	$4,000,000	2002
NELSON	04- 184.00	US-62	STP	UTILITIES	$400,000	2003
NELSON	04- 191.00	BG-9002	NH	CONSTRUCTION	$590,000	2002
NELSON	04- 285.00	US-31E	SP	DESIGN	$250,000	2004
NELSON	04- 295.10	KY-245	SP	RIGHT OF WAY	$400,000	2002
NELSON	04- 295.10	KY-245	SP	UTILITIES	$200,000	2003
NELSON	04- 295.10	KY-245	SP	CONSTRUCTION	$1,000,000	2004
NELSON	04- 311.00	US-31E	STP	RIGHT OF WAY	$1,500,000	2003
NELSON	04- 1049.00	KY-509	BRX	CONSTRUCTION	$400,000	2003
NELSON	04- 2004.00	BG-9002	NH	DESIGN	$60,000	2002
NELSON	04- 2004.00	BG-9002	NH	CONSTRUCTION	$5,250,000	2002
OHIO	02- 5003.00	WN-9007	SP	CONSTRUCTION	$82,300	2002
OLDHAM	05- 230.00	KY-393	STP	CONSTRUCTION	$4,000,000	2001
OLDHAM	05- 230.01	KY-393	STP	CONSTRUCTION	$6,300,000	2002
OLDHAM	05- 304.01	KY-22	STP	RIGHT OF WAY	$3,300,000	2001
OLDHAM	05- 304.01	KY-22	STP	UTILITIES	$1,600,000	2002
OLDHAM	05- 367.00	-	STP	RIGHT OF WAY	$5,000,000	2001
OLDHAM	05- 367.00	-	STP	UTILITIES	$3,000,000	2003
OLDHAM	05- 5005.00	KY-1793	SP	DESIGN	$75,000	2002
OWEN	06- 356.00	KY-22	SP	CONSTRUCTION	$2,500,000	2001

OWSLEY	10- 279.50	KY-30	SP	DESIGN	$500,000	2001
OWSLEY	10- 1034.00	KY-30	BRO	CONSTRUCTION	$2,800,000	2001
OWSLEY	10- 5003.00	KY-847	SP	CONSTRUCTION	$265,600	2001
OWSLEY	10- 5004.00	KY-28	SP	DESIGN	$180,000	2001
OWSLEY	10- 5004.00	KY-28	SP	RIGHT OF WAY	$25,000	2002
OWSLEY	10- 5004.00	KY-28	SP	CONSTRUCTION	$1,500,000	2003
PENDLETON	06- 276.00	US-27	STP	CONSTRUCTION	$4,500,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	RIGHT OF WAY	$160,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	UTILITIES	$100,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	CONSTRUCTION	$1,000,000	2003
PERRY	10- 114.00	KY-7	STP	RIGHT OF WAY	$1,000,000	2001
PERRY	10- 114.00	KY-7	STP	UTILITIES	$750,000	2002
PERRY	10- 114.00	KY-7	STP	CONSTRUCTION	$13,100,000	2003
PERRY	10- 114.02	KY-7	STP	CONSTRUCTION	$6,000,000	2004
PERRY	10- 122.00	DB-9006	SP	DESIGN	$500,000	2003
PERRY	10- 269.01	KY-15	STP	CONSTRUCTION	$11,500,000	2002
PERRY	10- 269.02	KY-15	NH	CONSTRUCTION	$17,000,000	2001
PERRY	10- 1021.00	-	BRZ	RIGHT OF WAY	$696,000	2002
PERRY	10- 1021.00	-	BRZ	UTILITIES	$250,000	2002
PERRY	10- 5000.00	KY-476	SP	CONSTRUCTION	$307,600	2001
PERRY	10- 5002.00	KY-476	SP	CONSTRUCTION	$63,400	2001
PERRY	10- 5005.00	KY-7	SP	RIGHT OF WAY	$50,000	2001
PERRY	10- 5005.00	KY-7	SP	CONSTRUCTION	$1,750,000	2003
PERRY	10- 5006.00	KY-80	SP	DESIGN	$210,000	2002
PERRY	10- 5006.00	KY-80	SP	RIGHT OF WAY	$30,000	2003
PERRY	10- 5006.00	KY-80	SP	CONSTRUCTION	$1,750,000	2004
PIKE	12- 131.00	US-23	NH	DESIGN	$400,000	2001
PIKE	12- 131.00	US-23	NH	RIGHT OF WAY	$1,000,000	2003
PIKE	12- 131.00	US-23	NH	UTILITIES	$1,000,000	2004
PIKE	12- 131.01	US-23	NH	DESIGN	$400,000	2002
PIKE	12- 263.10	US-460	SP	CONSTRUCTION	$13,500,000	2002
PIKE	12- 263.11	US-460	SP	CONSTRUCTION	$10,000,000	2003
PIKE	12- 263.15	US-460	SP	RIGHT OF WAY	$4,000,000	2001
PIKE	12- 263.15	US-460	APD	UTILITIES	$2,000,000	2003
PIKE	12- 263.22	US-460	APD	DESIGN	$1,000,000	2001
PIKE	12- 263.22	US-460	APD	RIGHT OF WAY	$5,000,000	2003
PIKE	12- 263.24	US-460	APD	DESIGN	$1,000,000	2003
PIKE	12- 264.21	US-119	NH	CONSTRUCTION	$11,000,000	2002
PIKE	12- 264.22	US-119	NH	CONSTRUCTION	$4,000,000	2003
PIKE	12- 281.00	KY-194	SP	DESIGN	$200,000	2003
PIKE	12- 298.00	KY-199	SP	RIGHT OF WAY	$2,500,000	2002
PIKE	12- 298.00	KY-199	SP	UTILITIES	$300,000	2002
PIKE	12- 308.12	US-119	NH	CONSTRUCTION	$11,000,000	2001
PIKE	12- 308.21	US-119	APD	CONSTRUCTION	$11,000,000	2002
PIKE	12- 308.30	US-119	APD	CONSTRUCTION	$7,000,000	2001
PIKE	12- 308.31	US-119	APD	CONSTRUCTION	$13,000,000	2002
PIKE	12- 308.32	US-119	APD	CONSTRUCTION	$14,000,000	2003

PIKE	12- 308.33	US-119	STP	CONSTRUCTION	$20,000,000	2004
PIKE	12- 308.40	US-119	APD	CONSTRUCTION	$20,000,000	2004
PIKE	12- 1037.00	KY-1499	BRO	CONSTRUCTION	$700,000	2003
PIKE	12- 1042.00	KY-2061	BRX	CONSTRUCTION	$425,000	2002
PIKE	12- 1043.00	KY-3419	BRX	CONSTRUCTION	$350,000	2002
PIKE	12- 1050.00	CR-1559	BRZ	CONSTRUCTION	$300,000	2001
PIKE	12- 1051.00	CR-5116	BRZ	RIGHT OF WAY	$50,000	2001
PIKE	12- 1051.00	CR-5116	BRZ	UTILITIES	$100,000	2001
PIKE	12- 1057.00	KY-292	BRO	RIGHT OF WAY	$200,000	2002
PIKE	12- 1057.00	KY-292	BRO	UTILITIES	$300,000	2002
PIKE	12- 1057.00	KY-292	BRO	CONSTRUCTION	$1,400,000	2004
PIKE	12- 1062.00	KY-199	BRX	CONSTRUCTION	$375,000	2002
PIKE	12- 5005.00	US-23	SP	DESIGN	$250,000	2001
PIKE	12- 5005.00	US-23	SP	RIGHT OF WAY	$80,000	2002
PIKE	12- 5005.00	US-23	SP	CONSTRUCTION	$2,500,000	2003
PIKE	12- 5010.00	KY-1426	SP	DESIGN	$300,000	2001
POWELL	10- 118.01	KY-213	STP	UTILITIES	$750,000	2001
POWELL	10- 118.01	KY-213	STP	CONSTRUCTION	$1,720,000	2002
POWELL	10- 1055.00	KY-1639	BRX	CONSTRUCTION	$363,000	2002
PULASKI	08- 55.10	US-27	NH	UTILITIES	$3,000,000	2001
PULASKI	08- 55.10	US-27	NH	CONSTRUCTION	$10,000,000	2002
PULASKI	08- 55.11	US-27	NH	CONSTRUCTION	$10,000,000	2003
PULASKI	08- 138.03	US-27	BRO	CONSTRUCTION	$9,000,000	2001
PULASKI	08- 259.01	-	STP	RIGHT OF WAY	$5,500,000	2001
PULASKI	08- 259.01	-	STP	UTILITIES	$2,500,000	2003
PULASKI	08- 268.01	-	SP	CONSTRUCTION	$2,500,000	2001
PULASKI	08- 270.00	KY-1247	SP	RIGHT OF WAY	$3,750,000	2002
PULASKI	08- 270.00	KY-1247	SP	UTILITIES	$970,000	2004
PULASKI	08- 1009.01	KY-90	BRO	CONSTRUCTION	$5,000,000	2001
PULASKI	08- 1009.02	KY-90	BRO	CONSTRUCTION	$12,000,000	2002
PULASKI	08- 1009.03	KY-90	BRO	CONSTRUCTION	$13,000,000	2003
PULASKI	08- 5003.00	US-27	SP	DESIGN	$70,000	2001
PULASKI	08- 5003.00	US-27	SP	RIGHT OF WAY	$200,000	2002
PULASKI	08- 5003.00	US-27	SP	UTILITIES	$75,000	2002
PULASKI	08- 5003.00	US-27	SP	CONSTRUCTION	$1,600,000	2003
PULASKI	08- 5004.00	CU-9008	SP	DESIGN	$50,000	2001
PULASKI	08- 5004.00	CU-9008	SP	RIGHT OF WAY	$20,000	2002
PULASKI	08- 5004.00	CU-9008	SP	CONSTRUCTION	$2,350,000	2004
ROBERTSON	06- 121.00	KY-165	SP	DESIGN	$150,000	2003
ROBERTSON	06- 122.00	KY-165	SP	DESIGN	$150,000	2003
ROBERTSON	06- 348.00	CR-1302	BRZ	RIGHT OF WAY	$35,000	2001
ROBERTSON	06- 348.00	CR-1302	BRZ	UTILITIES	$30,000	2001
ROCKCASTLE	08- 4.00	I-75	IM	CONSTRUCTION	$4,000,000	2002
ROCKCASTLE	08- 4.01	I-75	NH	CONSTRUCTION	$10,000,000	2002
ROCKCASTLE	08- 163.10	US-150	STP	DESIGN	$1,000,000	2002
ROCKCASTLE	08- 163.10	US-150	STP	RIGHT OF WAY	$3,000,000	2004
ROWAN	09- 142.00	KY-32	SP	DESIGN	$500,000	2003

ROWAN	09- 156.01	KY-519	STP	RIGHT OF WAY	$2,000,000	2001
ROWAN	09- 156.01	KY-519	STP	UTILITIES	$1,500,000	2002
ROWAN	09- 156.01	KY-519	STP	CONSTRUCTION	$12,500,000	2004
ROWAN	09- 300.00	I-64	STP	CONSTRUCTION	$7,000,000	2001
ROWAN	09- 1026.00	KY-32	BRO	CONSTRUCTION	$500,000	2002
ROWAN	09- 1040.00	CR-1222	BRZ	DESIGN	$50,000	2002
ROWAN	09- 1040.00	CR-1222	BRZ	RIGHT OF WAY	$50,000	2004
ROWAN	09- 1040.00	CR-1222	BRZ	UTILITIES	$150,000	2004
ROWAN	09- 5007.00	I-64	SP	DESIGN	$60,000	2004
RUSSELL	08- 54.01	US-127	SP	DESIGN	$300,000	2001
RUSSELL	08- 54.01	US-127	STP	RIGHT OF WAY	$5,500,000	2003
RUSSELL	08- 5007.00	US-127	SP	DESIGN	$35,000	2004
SCOTT	06- 72.21	I-75	NH	UTILITIES	$500,000	2001
SCOTT	07- 86.00	US-460	STP	UTILITIES	$700,000	2001
SCOTT	07- 86.00	US-460	STP	CONSTRUCTION	$5,000,000	2002
SCOTT	07- 102.01	-	STP	RIGHT OF WAY	$6,000,000	2004
SCOTT	07- 209.20	-	SP	CONSTRUCTION	$3,675,000	2001
SCOTT	07- 212.00	US-460	SP	DESIGN	$300,000	2001
SCOTT	07- 212.00	US-460	STP	RIGHT OF WAY	$750,000	2003
SCOTT	07- 298.00	US-62	SP	UTILITIES	$750,000	2001
SCOTT	07- 298.00	US-62	STP	CONSTRUCTION	$9,000,000	2002
SCOTT	07- 1042.00	CR-1218	BRZ	CONSTRUCTION	$500,000	2001
SCOTT	07- 1076.00	KY-32	BRO	UTILITIES	$75,000	2001
SCOTT	07- 1076.00	KY-32	BRO	CONSTRUCTION	$200,000	2002
SCOTT	07- 5000.00	KY-620	SP	CONSTRUCTION	$342,000	2001
SHELBY	05- 172.00	KY-395	STP	RIGHT OF WAY	$4,000,000	2002
SHELBY	05- 172.00	KY-395	STP	UTILITIES	$800,000	2003
SHELBY	05- 326.01	-	SP	RIGHT OF WAY	$5,000,000	2002
SHELBY	05- 326.01	-	SP	UTILITIES	$2,000,000	2003
SHELBY	05- 326.01	-	SP	CONSTRUCTION	$18,000,000	2004
SHELBY	05- 1021.00	US-60	BRO	RIGHT OF WAY	$50,000	2002
SHELBY	05- 1021.00	US-60	BRO	UTILITIES	$50,000	2002
SHELBY	05- 1021.00	US-60	BRO	CONSTRUCTION	$200,000	2004
SHELBY	05- 2006.00	I-64	IM	DESIGN	$150,000	2002
SHELBY	05- 2011.00	KY-53	SP	CONSTRUCTION	$4,000,000	2001
SHELBY	05- 2012.00	US-60	SP	CONSTRUCTION	$100,000	2001
SIMPSON	03- 8.00	US-31W	STP	RIGHT OF WAY	$5,500,000	2002
SIMPSON	03- 8.00	US-31W	STP	UTILITIES	$2,500,000	2004
SIMPSON	03- 197.00	KY-100	SP	CONSTRUCTION	$1,000,000	2001
SIMPSON	03- 1052.00	KY-73	BRO	RIGHT OF WAY	$75,000	2002
SIMPSON	03- 1052.00	KY-73	BRO	UTILITIES	$50,000	2002
SIMPSON	03- 1052.00	KY-73	BRO	CONSTRUCTION	$300,000	2004
SPENCER	05- 307.00	KY-2450	SP	CONSTRUCTION	$2,500,000	2001
SPENCER	05- 347.00	KY-44	STP	DESIGN	$1,000,000	2003
SPENCER	05- 5001.00	KY-44	SP	CONSTRUCTION	$250,000	2002
SPENCER	05- 5006.00	KY-55	SP	DESIGN	$45,000	2003
TAYLOR	04- 114.00	KY-210	SP	DESIGN	$350,000	2004

TAYLOR	04- 1037.00	CR-1210	BRZ	CONSTRUCTION	$200,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	RIGHT OF WAY	$50,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	UTILITIES	$50,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	CONSTRUCTION	$500,000	2004
TAYLOR	04- 5000.00	US-68	SP	CONSTRUCTION	$550,000	2001
TODD	03- 2003.00	US-79	SP	CONSTRUCTION	$3,000,000	2002
TODD	03- 2004.00	KY-346	SP	CONSTRUCTION	$1,400,000	2001
TRIGG	01- 180.51	US-68	STP	RIGHT OF WAY	$4,900,000	2001
TRIGG	01- 180.51	US-68	STP	UTILITIES	$7,745,000	2002
TRIGG	01- 180.51	US-68	STP	CONSTRUCTION	$8,000,000	2004
TRIGG	01- 180.52	US-68	SP	RIGHT OF WAY	$50,000	2001
TRIGG	01- 180.52	US-68	SP	UTILITIES	$1,250,000	2001
TRIGG	01- 180.52	US-68	SP	CONSTRUCTION	$14,000,000	2003
TRIGG	01- 180.53	US-68	SP	RIGHT OF WAY	$50,000	2001
TRIGG	01- 180.53	US-68	SP	UTILITIES	$500,000	2001
TRIGG	01- 180.53	US-68	SP	CONSTRUCTION	$10,500,000	2003
TRIGG	01- 180.60	US-68	BRO	UTILITIES	$150,000	2001
TRIGG	01- 180.60	US-68	BRO	CONSTRUCTION	$8,000,000	2003
TRIGG	01- 180.61	US-68	STP	CONSTRUCTION	$11,000,000	2004
TRIGG	01- 1120.00	KY-139	BRO	RIGHT OF WAY	$250,000	2001
TRIGG	01- 1120.00	KY-139	BRO	UTILITIES	$260,000	2001
TRIGG	01- 1120.00	KY-139	BRO	CONSTRUCTION	$1,780,000	2003
TRIGG	01- 1131.00	KY-272	BRX	RIGHT OF WAY	$300,000	2002
TRIGG	01- 1131.00	KY-272	BRX	UTILITIES	$300,000	2002
TRIMBLE	05- 5003.00	US-42	SP	DESIGN	$65,000	2001
TRIMBLE	05- 5003.00	US-42	SP	CONSTRUCTION	$500,000	2002
UNION	02- 79.20	US-60	SP	DESIGN	$1,800,000	2004
UNION	02- 102.00	KY-56	STP	CONSTRUCTION	$2,500,000	2002
UNION	02- 122.01	US-60	STP	RIGHT OF WAY	$1,500,000	2001
UNION	02- 122.01	US-60	STP	UTILITIES	$1,000,000	2002
UNION	02- 122.01	US-60	STP	CONSTRUCTION	$15,000,000	2003
UNION	02- 123.01	US-60	STP	RIGHT OF WAY	$1,000,000	2001
UNION	02- 123.01	US-60	STP	UTILITIES	$750,000	2003
UNION	02- 123.01	US-60	STP	CONSTRUCTION	$10,500,000	2004
UNION	02- 294.01	US-60	STP	CONSTRUCTION	$4,750,000	2001
UNION	02- 1048.00	KY-948	BRX	CONSTRUCTION	$130,000	2002
UNION	02- 2023.00	KY-109	SP	CONSTRUCTION	$1,210,000	2001
WARREN	03- 5.00	I-65	IM	CONSTRUCTION	$12,000,000	2004
WARREN	03- 6.00	I-65	NH	CONSTRUCTION	$5,000,000	2004
WARREN	03- 6.01	I-65	IM	CONSTRUCTION	$4,000,000	2004
WARREN	03- 11.00	I-65	STP	CONSTRUCTION	$15,000,000	2004
WARREN	03- 11.01	I-65	SP	CONSTRUCTION	$14,000,000	2004
WARREN	03- 53.00	-	NH	CONSTRUCTION	$7,000,000	2002
WARREN	03- 53.01	-	NH	CONSTRUCTION	$10,000,000	2003
WARREN	03- 146.31	US-231	STP	CONSTRUCTION	$5,000,000	2001
WARREN	03- 252.10	KY-234	STP	CONSTRUCTION	$6,000,000	2001
WARREN	03- 290.01	KY-880	SP	RIGHT OF WAY	$4,500,000	2001

WARREN	03- 290.01	KY-880	SP	UTILITIES	$2,500,000	2003
WARREN	03- 310.00	-	SP	UTILITIES	$750,000	2002
WARREN	03- 310.00	-	SP	CONSTRUCTION	$3,200,000	2004
WARREN	03- 312.00	US-31W	STP	RIGHT OF WAY	$2,500,000	2001
WARREN	03- 312.00	US-31W	STP	UTILITIES	$2,000,000	2003
WARREN	03- 316.00	KY-2158	SP	RIGHT OF WAY	$2,000,000	2001
WARREN	03- 316.00	KY-2158	SP	UTILITIES	$2,500,000	2003
WARREN	03- 317.00	US-31W	STP	DESIGN	$500,000	2003
WASHINGTON	04- 103.05	US-150	STP	CONSTRUCTION	$4,200,000	2001
WASHINGTON	04- 284.01	KY-555	STP	UTILITIES	$1,000,000	2001
WASHINGTON	04- 284.01	KY-555	STP	CONSTRUCTION	$19,600,000	2003
WASHINGTON	04- 307.00	US-150	STP	DESIGN	$500,000	2001
WASHINGTON	04- 307.00	US-150	STP	RIGHT OF WAY	$2,000,000	2003
WEBSTER	02- 128.00	US-41A	SP	DESIGN	$250,000	2003
WEBSTER	02- 5007.00	PE-9004	SP	RIGHT OF WAY	$20,000	2001
WEBSTER	02- 5007.00	PE-9004	SP	UTILITIES	$25,000	2001
WEBSTER	02- 5007.00	PE-9004	SP	CONSTRUCTION	$650,000	2002
WHITLEY	11- 14.00	I-75	NH	DESIGN	$3,000,000	2001
WHITLEY	11- 14.01	I-75	IM	DESIGN	$3,000,000	2001
WHITLEY	11- 120.00	US-25W	SP	RIGHT OF WAY	$800,000	2002
WHITLEY	11- 120.00	US-25W	SP	UTILITIES	$450,000	2003
WHITLEY	11- 120.00	US-25W	SP	CONSTRUCTION	$4,000,000	2004
WHITLEY	08- 261.10	KY-92	SP	RIGHT OF WAY	$3,000,000	2001
WHITLEY	08- 261.10	KY-92	SP	UTILITIES	$2,000,000	2003
WHITLEY	11- 1042.00	KY-628	BRX	UTILITIES	$25,000	2001
WHITLEY	11- 1042.00	KY-628	BRX	CONSTRUCTION	$300,000	2002
WHITLEY	11- 1048.00	KY-779	BRX	RIGHT OF WAY	$40,000	2002
WHITLEY	11- 1048.00	KY-779	BRX	UTILITIES	$60,000	2002
WHITLEY	11- 5001.00	US-25W	SP	CONSTRUCTION	$125,000	2002
WHITLEY	11- 5002.00	US-25W	SP	RIGHT OF WAY	$30,000	2001
WHITLEY	11- 5002.00	US-25W	SP	UTILITIES	$20,000	2001
WHITLEY	11- 5002.00	US-25W	SP	CONSTRUCTION	$1,500,000	2002
WHITLEY	11- 5007.00	US-25W	SP	DESIGN	$50,000	2004
WOLFE	10- 11.00	KY-15	SP	DESIGN	$2,000,000	2003
WOLFE	10- 126.10	KY-9009	SP	DESIGN	$600,000	2001
WOLFE	10- 126.10	KY-9009	NH	RIGHT OF WAY	$2,000,000	2003
WOLFE	10- 126.20	KY-9009	SP	DESIGN	$600,000	2003
WOODFORD	07- 347.00	-	SP	CONSTRUCTION	$7,948,000	2001
WOODFORD	07- 5005.00	KY-1964	SP	DESIGN	$80,000	2002
WOODFORD	07- 5005.00	KY-1964	SP	CONSTRUCTION	$750,000	2003
ZVARIOUS	99- 24.00	I-64	IM	CONSTRUCTION	$3,500,000	2002
ZVARIOUS	99- 41.00	I-24	IM	CONSTRUCTION	$2,500,000	2002
ZVARIOUS	99- 42.00	-	IM	CONSTRUCTION	$3,500,000	2003
ZVARIOUS	99- 86.05	-	SP	CONSTRUCTION	$40,000,000	2001
ZVARIOUS	99- 86.06	-	SP	CONSTRUCTION	$40,000,000	2002
ZVARIOUS	99- 86.07	-	SP	CONSTRUCTION	$40,000,000	2003
ZVARIOUS	99- 86.08	-	SP	CONSTRUCTION	$40,000,000	2004

ZVARIOUS	99- 121.00	-	NH	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 124.00	-	BRZ	CONSTRUCTION	$875,000	2001
ZVARIOUS	99- 195.03	-	TE	CONSTRUCTION	$13,500,000	2001
ZVARIOUS	99- 195.04	-	TE	CONSTRUCTION	$13,500,000	2002
ZVARIOUS	99- 195.05	-	TE	CONSTRUCTION	$13,500,000	2003
ZVARIOUS	99- 195.06	-	TE	CONSTRUCTION	$13,500,000	2004
ZVARIOUS	99- 206.10	-	SAF	CONSTRUCTION	$5,000,000	2001
ZVARIOUS	99- 206.20	-	SAF	CONSTRUCTION	$5,000,000	2002
ZVARIOUS	99- 207.00	-	NH	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 208.00	-	NH	CONSTRUCTION	$1,000,000	2004
ZVARIOUS	99- 209.00	-	SP	CONSTRUCTION	$5,000,000	2003
ZVARIOUS	99- 212.05	I-75	SP	CONSTRUCTION	$200,000	2001
ZVARIOUS	99- 212.06	I-75	SP	CONSTRUCTION	$200,000	2002
ZVARIOUS	99- 212.07	I-75	SP	CONSTRUCTION	$200,000	2003
ZVARIOUS	99- 212.08	I-75	SP	CONSTRUCTION	$200,000	2004
ZVARIOUS	99- 219.01	-	CM	CONSTRUCTION	$4,200,000	2001
ZVARIOUS	99- 219.02	-	CM	CONSTRUCTION	$6,200,000	2002
ZVARIOUS	99- 219.03	-	CM	CONSTRUCTION	$4,300,000	2003
ZVARIOUS	99- 219.04	-	CM	CONSTRUCTION	$4,400,000	2004
ZVARIOUS	99- 228.00	-	BRZ	CONSTRUCTION	$875,000	2002
ZVARIOUS	99- 233.00	-	BRO	CONSTRUCTION	$550,000	2001
ZVARIOUS	99- 234.00	-	BRO	CONSTRUCTION	$775,000	2002
ZVARIOUS	99- 235.40	-	SP	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 235.50	-	SP	CONSTRUCTION	$300,000	2002
ZVARIOUS	99- 235.60	-	SP	CONSTRUCTION	$300,000	2003
ZVARIOUS	99- 235.70	-	SP	CONSTRUCTION	$300,000	2004
ZVARIOUS	99- 242.00	-	STP	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 243.00	-	STP	CONSTRUCTION	$750,000	2002
ZVARIOUS	99- 243.01	-	STP	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 243.02	-	STP	CONSTRUCTION	$500,000	2004
ZVARIOUS	99- 246.00	-	NH	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 252.00	-	SP	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 253.00	-	SP	CONSTRUCTION	$1,500,000	2002
ZVARIOUS	99- 253.01	-	SP	CONSTRUCTION	$1,500,000	2003
ZVARIOUS	99- 253.02	-	SP	CONSTRUCTION	$1,500,000	2004
ZVARIOUS	99- 258.00	-	SP	CONSTRUCTION	$500,000	2001
ZVARIOUS	99- 259.01	-	SP	CONSTRUCTION	$500,000	2003
ZVARIOUS	99- 268.00	-	BRO	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 269.00	-	BRO	CONSTRUCTION	$1,500,000	2002
ZVARIOUS	99- 275.00	-	SAF	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 276.00	-	SAF	CONSTRUCTION	$2,000,000	2002
ZVARIOUS	99- 277.00	-	SP	CONSTRUCTION	$5,000,000	2001
ZVARIOUS	99- 278.00	-	SP	CONSTRUCTION	$9,000,000	2002
ZVARIOUS	99- 278.10	-	SP	CONSTRUCTION	$5,000,000	2004
ZVARIOUS	99- 282.00	-	SP	DESIGN	$500,000	2001
ZVARIOUS	99- 283.00	-	SP	DESIGN	$500,000	2002
ZVARIOUS	99- 287.00	-	SP	DESIGN	$300,000	2001

ZVARIOUS	99- 288.00	-	SP	DESIGN	$300,000	2002
ZVARIOUS	99- 290.00	-	STP	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 300.00	-	IM	CONSTRUCTION	$4,000,000	2001
ZVARIOUS	99- 301.00	-	IM	CONSTRUCTION	$18,000,000	2002
ZVARIOUS	99- 302.01	-	STP	DESIGN	$100,000	2001
ZVARIOUS	99- 302.01	-	STP	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 302.02	-	STP	DESIGN	$50,000	2003
ZVARIOUS	99- 302.02	-	STP	CONSTRUCTION	$500,000	2003
ZVARIOUS	99- 319.00	-	SP	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 320.00	-	SP	CONSTRUCTION	$2,000,000	2002
ZVARIOUS	99- 324.00	-	BRO	CONSTRUCTION	$550,000	2003
ZVARIOUS	99- 325.00	-	BRO	CONSTRUCTION	$500,000	2004
ZVARIOUS	99- 326.00	-	BRO	CONSTRUCTION	$1,500,000	2003
ZVARIOUS	99- 327.00	-	BRO	CONSTRUCTION	$1,500,000	2004
ZVARIOUS	99- 330.00	-	FH	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 331.00	-	FH	CONSTRUCTION	$300,000	2002
ZVARIOUS	99- 332.00	-	FH	CONSTRUCTION	$300,000	2003
ZVARIOUS	99- 333.00	-	FH	CONSTRUCTION	$300,000	2004
ZVARIOUS	99- 334.00	-	SP	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 335.00	-	SP	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 336.00	-	IM	CONSTRUCTION	$9,000,000	2003
ZVARIOUS	99- 337.00	-	IM	CONSTRUCTION	$15,000,000	2004
ZVARIOUS	99- 338.00	-	SP	DESIGN	$500,000	2003
ZVARIOUS	99- 339.00	-	SP	DESIGN	$500,000	2004
ZVARIOUS	99- 340.00	-	SP	DESIGN	$300,000	2003
ZVARIOUS	99- 341.00	-	SP	DESIGN	$300,000	2004
ZVARIOUS	99- 342.00	-	BRO	DESIGN	$1,000,000	2002
ZVARIOUS	99- 343.00	-	BRO	DESIGN	$1,200,000	2003
ZVARIOUS	99- 344.00	-	BRO	DESIGN	$2,000,000	2004
ZVARIOUS	99- 345.00	-	BRZ	CONSTRUCTION	$875,000	2003
ZVARIOUS	99- 346.00	-	BRZ	CONSTRUCTION	$875,000	2004
ZVARIOUS	99- 347.00	-	BRZ	DESIGN	$400,000	2002
ZVARIOUS	99- 348.00	-	BRZ	DESIGN	$500,000	2003
ZVARIOUS	99- 349.00	-	BRZ	DESIGN	$500,000	2004
ZVARIOUS	99- 350.00	-	NH	DESIGN	$2,000,000	2003
ZVARIOUS	99- 351.00	-	SAF	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 352.00	-	SAF	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 353.00	-	SAF	CONSTRUCTION	$7,000,000	2003
ZVARIOUS	99- 354.00	-	SAF	CONSTRUCTION	$7,000,000	2004
ZVARIOUS	99- 355.00	-	SAF	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 356.00	-	SAF	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 357.02	-	SP	DESIGN	$200,000	2001
ZVARIOUS	99- 357.03	-	SP	DESIGN	$200,000	2002
ZVARIOUS	99- 357.04	-	SP	DESIGN	$200,000	2003
ZVARIOUS	99- 357.05	-	SP	DESIGN	$200,000	2004
ZVARIOUS	99- 360.00	-	BRO	DESIGN	$1,500,000	2001
ZVARIOUS	99- 1051.00	-	SP	CONSTRUCTION	$450,000	2001

ZVARIOUS	99- 1052.00	-	SP	CONSTRUCTION	$450,000	2002
ZVARIOUS	99- 1060.00	-	BRX	CONSTRUCTION	$250,000	2001
ZVARIOUS	99- 1061.00	-	BRX	CONSTRUCTION	$250,000	2002
ZVARIOUS	99- 1062.00	-	BRX	CONSTRUCTION	$250,000	2003
ZVARIOUS	99- 1063.00	-	BRX	CONSTRUCTION	$250,000	2004
ZVARIOUS	99- 1064.00	-	SP	CONSTRUCTION	$450,000	2003
ZVARIOUS	99- 1065.00	-	SP	CONSTRUCTION	$450,000	2004
ZVARIOUS	99- 1066.00	-	BRX	DESIGN	$500,000	2003
ZVARIOUS	99- 1067.00	-	BRX	DESIGN	$1,000,000	2004
ZVARIOUS	99- 1068.00	-	BRX	CONSTRUCTION	$4,000,000	2004
ZVARIOUS	99- 1069.00	-	BRZ	CONSTRUCTION	$3,700,000	2004
ZVARIOUS	99- 5002.00	-	SP	CONSTRUCTION	$1,000,000	2001
ZVARIOUS	99- 5003.00	-	SP	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 5004.00	-	SP	CONSTRUCTION	$1,000,000	2003
ZVARIOUS	99- 5006.00	-	SP	CONSTRUCTION	$1,000,000	2004

The Committee Substitute to **HJR 92** is as follows:

A JOINT RESOLUTION establishing the additional four (4) year highway construction plan outlined in the Recommended FY 1999 - FY 2004 Six Year Road Plan presented to the 1998 General Assembly.

WHEREAS, the statutes of the Commonwealth require a highway construction plan to be presented to the General Assembly that details those projects that will be presented for construction by the Department of Highways in future years; and

WHEREAS, the General Assembly recognizes the importance of planning and the assurance that once projects are initiated that they are completed; and

WHEREAS, in previous years shifting of projects has diminished the confidence of the General Assembly and the public that roads in the Six Year Road Plan will be constructed in a timely fashion; and

WHEREAS, the first major step in assuring that road projects are planned and built in a conscientious manner is to adopt projects scheduled for funding during the biennium in the budget memorandum and the projects scheduled for funding in the last four (4) years of the road plan in a joint resolution; and

WHEREAS, the General Assembly in adoption of this resolution is committed to working with the Department of Highways to develop a balanced and workable six (6) year road plan;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The projects authorized by the General Assembly in this Resolution constitute the official four (4) year highway construction plan outlined in the Recommended FY 1999 - FY 2004 Six Year Road Plan presented to the 1998 General Assembly. The following projects shall be the 2001-2004 additional four (4) year highway construction plan with project phases not scheduled for completion until after Fiscal Year 2000:

COUNTY	ITEM #	ROUTE	FUND	PHASE	ESTIMATE	FY
ADAIR	08- 159.00	KY-55	STP	CONSTRUCTION	$11,925,000	2001
ADAIR	08- 162.00	KY-61	SP	DESIGN	$1,000,000	2004
ADAIR	08- 5005.00	KY-6172	SP	DESIGN	$35,000	2002
ADAIR	08- 5005.00	KY-6172	SP	RIGHT OF WAY	$10,000	2003
ALLEN	03- 146.11	US-231	STP	CONSTRUCTION	$7,000,000	2001
ALLEN	03- 146.40	US-231	STP	RIGHT OF WAY	$4,000,000	2001
ALLEN	03- 146.40	US-231	STP	UTILITIES	$3,500,000	2002
ALLEN	03- 146.41	US-231	STP	CONSTRUCTION	$8,000,000	2003
ANDERSON	07- 304.01	US-127	SP	RIGHT OF WAY	$1,500,000	2001
ANDERSON	07- 304.01	US-127	SP	UTILITIES	$1,000,000	2002
ANDERSON	07- 346.00	KY-44	STP	CONSTRUCTION	$2,000,000	2001
ANDERSON	07- 2008.00	BG-9002	SP	DESIGN	$60,000	2002

ANDERSON	07- 2008.00	BG-9002	SP	CONSTRUCTION	$3,750,000	2004
BALLARD	01- 23.00	I-66	NH	DESIGN	$500,000	2002
BALLARD	01- 115.00	US-60	SP	DESIGN	$750,000	2003
BALLARD	01- 185.00	US-51	NH	CONSTRUCTION	$2,500,000	2003
BARREN	03- 185.00	KY-70	KYD	CONSTRUCTION	$7,870,000	2002
BARREN	03- 192.01	-	SP	RIGHT OF WAY	$2,000,000	2002
BARREN	03- 192.01	-	SP	UTILITIES	$2,000,000	2004
BARREN	03- 192.20	-	SP	CONSTRUCTION	$10,000,000	2001
BARREN	03- 2002.00	I-65	IM	CONSTRUCTION	$2,500,000	2002
BATH	09- 127.00	KY-36	SP	DESIGN	$400,000	2003
BATH	09- 2001.00	I-64	IM	DESIGN	$80,000	2001
BATH	09- 2001.00	I-64	IM	CONSTRUCTION	$5,000,000	2003
BATH	09- 2002.00	I-64	IM	DESIGN	$180,000	2003
BATH	09- 5002.00	I-64	SP	DESIGN	$40,000	2001
BATH	09- 5002.00	I-64	SP	CONSTRUCTION	$400,000	2002
BATH	09- 5003.00	I-64	SP	DESIGN	$60,000	2001
BATH	09- 5003.00	I-64	SP	CONSTRUCTION	$900,000	2002
BELL	11- 57.00	US-119	NH	RIGHT OF WAY	$125,000	2001
BELL	11- 57.00	US-119	NH	UTILITIES	$60,000	2001
BELL	11- 57.00	US-119	NH	CONSTRUCTION	$2,000,000	2002
BELL	11- 135.00	KY-92	SP	DESIGN	$300,000	2002
BELL	11- 214.40	US-25E	SP	CONSTRUCTION	$1,250,000	2001
BELL	11- 214.50	US-25E	SP	CONSTRUCTION	$1,250,000	2002
BELL	11- 214.51	US-25E	SP	CONSTRUCTION	$1,250,000	2003
BELL	11- 214.52	US-25E	SP	CONSTRUCTION	$1,250,000	2004
BELL	11- 217.00	KY-66	SP	DESIGN	$40,000	2001
BELL	11- 217.00	KY-66	STP	RIGHT OF WAY	$1,500,000	2003
BELL	11- 1033.00	KY-2013	BRZ	CONSTRUCTION	$450,000	2001
BELL	11- 1034.00	KY-988	BRZ	CONSTRUCTION	$450,000	2001
BELL	11- 1044.00	CR-1212	BRZ	CONSTRUCTION	$250,000	2001
BELL	11- 1050.00	KY-1491	BRX	RIGHT OF WAY	$52,000	2002
BELL	11- 1050.00	KY-1491	BRX	UTILITIES	$10,000	2002
BOONE	06- 12.23	I-275	IM	CONSTRUCTION	$2,000,000	2001
BOONE	06- 64.01	US-42	STP	UTILITIES	$1,550,000	2001
BOONE	06- 64.01	US-42	STP	CONSTRUCTION	$8,000,000	2002
BOONE	06- 101.00	KY-536	SAF	CONSTRUCTION	$3,600,000	2001
BOONE	06- 116.00	-	SP	CONSTRUCTION	$1,400,000	2001
BOONE	06- 146.00	-	SP	CONSTRUCTION	$500,000	2001
BOONE	06- 316.01	KY-1017	SP	RIGHT OF WAY	$1,500,000	2001
BOONE	06- 316.01	KY-1017	SP	UTILITIES	$1,000,000	2003
BOONE	06- 331.01	-	CM	CONSTRUCTION	$500,000	2001
BOONE	06- 331.02	-	CM	CONSTRUCTION	$1,700,000	2004
BOONE	06- 351.00	US-25	STP	DESIGN	$750,000	2002
BOONE	06- 351.00	US-25	STP	RIGHT OF WAY	$2,000,000	2004
BOONE	06- 1039.00	-	CM	CONSTRUCTION	$50,000	2001
BOONE	06- 1044.02	-	CM	CONSTRUCTION	$1,250,000	2001
BOONE	06- 1044.03	-	CM	CONSTRUCTION	$1,500,000	2002

BOONE	06- 1044.04	-	CM	CONSTRUCTION	$1,700,000	2003
BOONE	06- 1044.05	-	CM	CONSTRUCTION	$1,500,000	2004
BOONE	06- 2002.00	I-275	IM	CONSTRUCTION	$12,100,000	2001
BOONE	06- 2004.00	I-71	IM	CONSTRUCTION	$2,600,000	2001
BOONE	06- 5001.00	US-42	SP	CONSTRUCTION	$512,500	2001
BOURBON	07- 310.01	US-68	NH	CONSTRUCTION	$14,000,000	2001
BOURBON	07- 310.02	US-68	NH	CONSTRUCTION	$8,000,000	2001
BOURBON	07- 310.03	US-68	NH	CONSTRUCTION	$4,000,000	2002
BOYD	09- 112.00	US-23S	NH	CONSTRUCTION	$2,000,000	2004
BOYD	09- 129.00	-	STP	DESIGN	$1,000,000	2001
BOYD	09- 141.00	KY-5	SP	DESIGN	$300,000	2004
BOYD	09- 176.00	US-23	NH	UTILITIES	$100,000	2001
BOYD	09- 176.00	US-23	NH	CONSTRUCTION	$720,000	2002
BOYD	09- 212.31	-	SP	CONSTRUCTION	$5,000,000	2004
BOYD	09- 275.00	US-60	STP	CONSTRUCTION	$2,900,000	2001
BOYD	09- 5005.00	US-23	SP	DESIGN	$50,000	2002
BOYD	09- 5005.00	US-23	SP	RIGHT OF WAY	$15,000	2003
BOYD	09- 5005.00	US-23	SP	UTILITIES	$20,000	2003
BOYLE	07- 210.00	KY-2168	SP	DESIGN	$600,000	2002
BOYLE	07- 210.00	KY-2168	SP	RIGHT OF WAY	$3,600,000	2004
BOYLE	07- 211.00	US-150B	SP	RIGHT OF WAY	$800,000	2002
BOYLE	07- 211.00	US-150B	SP	UTILITIES	$300,000	2003
BRACKEN	06- 355.03	-	SP	CONSTRUCTION	$125,000	2001
BRACKEN	06- 355.04	-	SP	CONSTRUCTION	$125,000	2002
BRACKEN	06- 355.05	-	SP	CONSTRUCTION	$125,000	2003
BRACKEN	06- 355.06	-	SP	CONSTRUCTION	$125,000	2004
BREATHITT	10- 270.11	KY-15	NH	CONSTRUCTION	$4,000,000	2002
BREATHITT	10- 270.12	KY-15	NH	CONSTRUCTION	$9,000,000	2003
BREATHITT	10- 270.20	KY-15	SP	UTILITIES	$1,500,000	2001
BREATHITT	10- 285.01	KY-15	NH	RIGHT OF WAY	$7,310,000	2001
BREATHITT	10- 285.01	KY-15	NH	UTILITIES	$925,000	2003
BREATHITT	10- 286.01	KY-15	NH	RIGHT OF WAY	$10,500,000	2001
BREATHITT	10- 286.01	KY-15	NH	UTILITIES	$1,700,000	2003
BREATHITT	10- 5007.00	KY-1812	SP	DESIGN	$100,000	2003
BREATHITT	10- 5007.00	KY-1812	SP	RIGHT OF WAY	$40,000	2004
BRECKINRIDGE	04- 1048.00	KY-992	BRX	CONSTRUCTION	$300,000	2002
BULLITT	05- 117.00	KY-61	STP	RIGHT OF WAY	$5,000,000	2001
BULLITT	05- 117.00	KY-61	STP	UTILITIES	$2,000,000	2003
BULLITT	05- 117.00	KY-61	STP	CONSTRUCTION	$10,000,000	2004
BULLITT	05- 347.50	KY-44	STP	DESIGN	$1,000,000	2004
BULLITT	05- 2008.00	I-65	IM	CONSTRUCTION	$600,000	2002
BULLITT	05- 5004.00	KY-44	SP	DESIGN	$65,000	2001
BULLITT	05- 5004.00	KY-44	SP	RIGHT OF WAY	$75,000	2002
BULLITT	05- 5004.00	KY-44	SP	CONSTRUCTION	$500,000	2003
BUTLER	03- 5000.00	US-231	SP	CONSTRUCTION	$180,000	2002
CALDWELL	02- 2011.00	WK-9001	SP	DESIGN	$70,000	2003
CALDWELL	02- 2011.00	WK-9001	SP	CONSTRUCTION	$4,000,000	2004

CALDWELL	02- 5005.00	WK-9001	SP	RIGHT OF WAY	$50,000	2001
CALDWELL	02- 5005.00	WK-9001	SP	UTILITIES	$10,000	2001
CALDWELL	02- 5005.00	WK-9001	SP	CONSTRUCTION	$1,100,000	2002
CALLOWAY	01- 181.11	US-68	SP	CONSTRUCTION	$16,000,000	2001
CALLOWAY	01- 181.14	US-68	SP	CONSTRUCTION	$16,000,000	2002
CALLOWAY	01- 181.21	KY-80	SP	UTILITIES	$1,210,000	2002
CALLOWAY	01- 181.22	KY-80	SP	UTILITIES	$3,300,000	2002
CALLOWAY	01- 181.22	KY-80	SP	CONSTRUCTION	$6,000,000	2004
CALLOWAY	01- 181.30	KY-80	SP	UTILITIES	$2,870,000	2001
CALLOWAY	01- 181.30	KY-80	SP	CONSTRUCTION	$12,000,000	2003
CALLOWAY	01- 181.31	KY-80	SP	UTILITIES	$3,300,000	2001
CALLOWAY	01- 181.31	KY-80	SP	CONSTRUCTION	$6,000,000	2003
CALLOWAY	01- 181.35	KY-80	SP	CONSTRUCTION	$14,000,000	2004
CALLOWAY	01- 314.00	US-641	SP	DESIGN	$1,800,000	2002
CALLOWAY	01- 1127.00	KY-280	BRX	CONSTRUCTION	$450,000	2002
CALLOWAY	01- 1128.00	KY-1824	BRX	RIGHT OF WAY	$55,000	2001
CALLOWAY	01- 1128.00	KY-1824	BRX	UTILITIES	$200,000	2002
CALLOWAY	01- 1128.00	KY-1824	BRX	CONSTRUCTION	$700,000	2003
CALLOWAY	01- 1129.00	KY-1824	BRX	RIGHT OF WAY	$55,000	2001
CALLOWAY	01- 1129.00	KY-1824	BRX	UTILITIES	$200,000	2002
CALLOWAY	01- 1129.00	KY-1824	BRX	CONSTRUCTION	$1,000,000	2003
CAMPBELL	06- 6.00	I-471	IM	CONSTRUCTION	$3,000,000	2002
CAMPBELL	06- 46.20	US-27	SP	CONSTRUCTION	$12,000,000	2002
CAMPBELL	06- 125.00	KY-2938	SP	DESIGN	$600,000	2003
CAMPBELL	06- 352.00	KY-536	SP	DESIGN	$600,000	2001
CAMPBELL	06- 352.00	KY-536	STP	RIGHT OF WAY	$7,000,000	2003
CAMPBELL	06- 1029.00	KY-1120	BRO	UTILITIES	$500,000	2001
CAMPBELL	06- 1029.00	KY-1120	BRO	CONSTRUCTION	$2,800,000	2002
CAMPBELL	06- 5003.00	KY-8	SP	RIGHT OF WAY	$100,000	2002
CAMPBELL	06- 5003.00	KY-8	SP	CONSTRUCTION	$3,000,000	2003
CAMPBELL	06- 5004.00	I-275	SP	DESIGN	$180,000	2001
CAMPBELL	06- 5004.00	I-275	SP	CONSTRUCTION	$1,500,000	2002
CAMPBELL	06- 5005.00	I-275	SP	DESIGN	$210,000	2001
CAMPBELL	06- 5005.00	I-275	NH	CONSTRUCTION	$1,750,000	2002
CAMPBELL	06- 5006.00	I-471	SP	DESIGN	$100,000	2001
CAMPBELL	06- 5006.00	I-471	SP	CONSTRUCTION	$1,000,000	2002
CARLISLE	01- 183.00	US-51	STP	DESIGN	$600,000	2002
CARLISLE	01- 1119.00	US-62	BRO	RIGHT OF WAY	$150,000	2001
CARLISLE	01- 1119.00	US-62	BRO	UTILITIES	$160,000	2001
CARLISLE	01- 1119.00	US-62	BRO	CONSTRUCTION	$600,000	2003
CARROLL	06- 12.25	I-71	IM	CONSTRUCTION	$700,000	2001
CARROLL	06- 147.00	US-42	SP	CONSTRUCTION	$5,000,000	2001
CARROLL	06- 347.00	KY-389	BRX	RIGHT OF WAY	$100,000	2001
CARROLL	06- 347.00	KY-389	BRX	UTILITIES	$75,000	2001
CARROLL	06- 347.00	KY-389	BRX	CONSTRUCTION	$850,000	2002
CARROLL	06- 5009.00	I-71	SP	DESIGN	$90,000	2003
CARTER	09- 144.00	-	SP	DESIGN	$225,000	2003

CARTER	09- 159.00	US-60	STP	UTILITIES	$300,000	2001
CARTER	09- 159.00	US-60	STP	CONSTRUCTION	$3,375,000	2003
CARTER	09- 1041.00	KY-1947	BRX	RIGHT OF WAY	$50,000	2001
CARTER	09- 1041.00	KY-1947	BRX	UTILITIES	$45,000	2001
CARTER	09- 1041.00	KY-1947	BRX	CONSTRUCTION	$345,000	2003
CARTER	09- 2003.00	I-64	IM	DESIGN	$50,000	2004
CARTER	09- 5004.00	US-60	SP	DESIGN	$65,000	2001
CARTER	09- 5004.00	US-60	SP	RIGHT OF WAY	$20,000	2002
CARTER	09- 5004.00	US-60	SP	UTILITIES	$40,000	2002
CARTER	09- 5004.00	US-60	SP	CONSTRUCTION	$800,000	2003
CASEY	08- 142.00	KY-70	SP	DESIGN	$500,000	2004
CASEY	08- 164.00	US-127	STP	DESIGN	$150,000	2001
CASEY	08- 164.00	US-127	STP	RIGHT OF WAY	$200,000	2002
CASEY	08- 164.00	US-127	STP	UTILITIES	$100,000	2002
CASEY	08- 164.00	US-127	STP	CONSTRUCTION	$600,000	2003
CASEY	08- 5002.00	US-127	SP	DESIGN	$50,000	2001
CASEY	08- 5002.00	US-127	SP	RIGHT OF WAY	$12,000	2002
CASEY	08- 5002.00	US-127	SP	CONSTRUCTION	$280,000	2002
CHRISTIAN	02- 100.00	PE-9004	NH	RIGHT OF WAY	$5,000,000	2002
CHRISTIAN	02- 100.00	PE-9004	NH	UTILITIES	$2,000,000	2003
CHRISTIAN	02- 100.00	PE-9004	NH	CONSTRUCTION	$19,000,000	2004
CHRISTIAN	02- 213.00	I-24	IM	DESIGN	$500,000	2001
CHRISTIAN	02- 213.00	I-24	IM	RIGHT OF WAY	$1,000,000	2003
CHRISTIAN	02- 213.00	I-24	IM	UTILITIES	$750,000	2004
CHRISTIAN	02- 308.00	US-41A	NH	CONSTRUCTION	$10,000,000	2001
CHRISTIAN	02- 311.00	US-41A	NH	CONSTRUCTION	$11,000,000	2002
CHRISTIAN	02- 311.01	US-41A	NH	UTILITIES	$2,000,000	2001
CHRISTIAN	02- 2000.00	I-24	IM	CONSTRUCTION	$2,500,000	2002
CLARK	07- 314.00	KY-1958	SP	DESIGN	$200,000	2003
CLARK	07- 331.01	-	SP	RIGHT OF WAY	$3,000,000	2001
CLARK	07- 331.01	-	SP	UTILITIES	$2,635,000	2002
CLARK	07- 331.01	-	SP	CONSTRUCTION	$10,000,000	2003
CLARK	07- 1080.00	CR-1210	BRZ	CONSTRUCTION	$350,000	2001
CLARK	07- 2001.00	I-64	IM	CONSTRUCTION	$2,000,000	2002
CLARK	07- 2002.00	I-64	IM	CONSTRUCTION	$3,100,000	2002
CLARK	07- 2010.00	KY-9000	SP	DESIGN	$150,000	2003
CLARK	07- 2010.00	KY-9000	SP	CONSTRUCTION	$7,360,000	2004
CLAY	11- 273.01	US-421	SP	RIGHT OF WAY	$5,600,000	2002
CLAY	11- 273.01	US-421	SP	UTILITIES	$2,700,000	2004
CLAY	11- 1035.00	US-421	BRO	CONSTRUCTION	$800,000	2002
CLAY	11- 2005.00	DB-9006	SP	DESIGN	$90,000	2002
CLAY	11- 2006.00	DB-9006	SP	DESIGN	$50,000	2002
CLAY	11- 2006.00	DB-9006	SP	CONSTRUCTION	$5,000,000	2003
CLAY	11- 4087.00	CR-1118	SP	CONSTRUCTION	$800,000	2001
CLAY	11- 5000.00	KY-11	SP	RIGHT OF WAY	$10,000	2001
CLAY	11- 5000.00	KY-11	SP	UTILITIES	$10,000	2001
CLAY	11- 5000.00	KY-11	SP	CONSTRUCTION	$420,500	2002

CLAY	11- 5005.00	KY-66	SP	DESIGN	$80,000	2003
CLAY	11- 5005.00	KY-66	SP	RIGHT OF WAY	$20,000	2004
CLAY	11- 5005.00	KY-66	SP	UTILITIES	$20,000	2004
CLAY	11- 5006.00	KY-80	SP	DESIGN	$50,000	2004
CLINTON	08- 165.00	US-127	SP	DESIGN	$800,000	2002
CLINTON	08- 165.00	US-127	SP	RIGHT OF WAY	$3,500,000	2004
CLINTON	08- 260.02	US-127	SP	CONSTRUCTION	$7,000,000	2001
CLINTON	08- 260.10	US-127	STP	RIGHT OF WAY	$2,500,000	2001
CLINTON	08- 260.10	US-127	STP	UTILITIES	$3,000,000	2003
CLINTON	08- 260.10	US-127	STP	CONSTRUCTION	$8,500,000	2004
CLINTON	08- 1015.00	KY-1076	BRX	RIGHT OF WAY	$250,000	2003
CLINTON	08- 1015.00	KY-1076	BRX	UTILITIES	$150,000	2004
CRITTENDEN	01- 187.00	US-641	SP	DESIGN	$400,000	2001
CRITTENDEN	01- 250.01	US-60	SP	RIGHT OF WAY	$2,000,000	2001
CRITTENDEN	01- 250.01	US-60	SP	UTILITIES	$1,000,000	2002
CRITTENDEN	01- 250.01	US-60	SP	CONSTRUCTION	$14,000,000	2004
CRITTENDEN	01- 267.01	US-60	SP	RIGHT OF WAY	$1,200,000	2002
CRITTENDEN	01- 267.01	US-60	SP	UTILITIES	$1,520,000	2003
CRITTENDEN	01- 325.00	KY-91	SP	CONSTRUCTION	$262,000	2001
CRITTENDEN	01- 326.00	KY-91	SP	CONSTRUCTION	$262,000	2002
CRITTENDEN	01- 326.01	KY-91	SP	CONSTRUCTION	$262,000	2003
CRITTENDEN	01- 326.02	KY-91	SP	CONSTRUCTION	$262,000	2004
CUMBERLAND	08- 158.04	KY-61	SP	RIGHT OF WAY	$8,000,000	2004
DAVIESS	02- 179.00	US-231	STP	CONSTRUCTION	$2,500,000	2004
DAVIESS	02- 221.00	KY-2121	SP	DESIGN	$750,000	2002
DAVIESS	02- 221.00	KY-2121	SP	RIGHT OF WAY	$780,000	2004
DAVIESS	02- 287.00	US-60	STP	RIGHT OF WAY	$4,000,000	2003
DAVIESS	02- 287.00	US-60	STP	UTILITIES	$2,500,000	2004
DAVIESS	02- 2012.00	US-60B	SP	CONSTRUCTION	$3,600,000	2001
EDMONSON	03- 140.00	KY-101	SP	RIGHT OF WAY	$750,000	2002
EDMONSON	03- 140.00	KY-101	SP	UTILITIES	$500,000	2002
EDMONSON	03- 140.00	KY-101	SP	CONSTRUCTION	$5,000,000	2004
EDMONSON	03- 141.00	KY-70	SP	RIGHT OF WAY	$300,000	2001
EDMONSON	03- 141.00	KY-70	SP	UTILITIES	$200,000	2001
EDMONSON	03- 141.00	KY-70	SP	CONSTRUCTION	$2,000,000	2002
ELLIOTT	09- 126.00	KY-7	SP	RIGHT OF WAY	$2,000,000	2001
ELLIOTT	09- 126.00	KY-7	SP	UTILITIES	$850,000	2001
ELLIOTT	09- 126.00	KY-7	SP	CONSTRUCTION	$8,000,000	2002
ELLIOTT	09- 126.50	KY-7	STP	RIGHT OF WAY	$3,500,000	2001
ELLIOTT	09- 126.50	KY-7	STP	UTILITIES	$1,000,000	2002
ELLIOTT	09- 293.01	KY-7	SP	DESIGN	$400,000	2002
ELLIOTT	09- 293.01	KY-7	SP	RIGHT OF WAY	$1,000,000	2004
ELLIOTT	09- 293.01	KY-7	SP	UTILITIES	$750,000	2004
ELLIOTT	09- 1039.00	KY-706	BRX	RIGHT OF WAY	$20,000	2001
ELLIOTT	09- 1039.00	KY-706	BRX	UTILITIES	$20,000	2001
ELLIOTT	09- 1039.00	KY-706	BRX	CONSTRUCTION	$230,000	2002
ESTILL	10- 363.00	KY-89	SP	RIGHT OF WAY	$2,200,000	2001

ESTILL	10- 363.00	KY-89	SP	UTILITIES	$1,000,000	2003
ESTILL	10- 364.00	KY-82	SP	RIGHT OF WAY	$100,000	2002
ESTILL	10- 364.00	KY-82	SP	UTILITIES	$100,000	2002
ESTILL	10- 364.00	KY-82	SP	CONSTRUCTION	$800,000	2004
ESTILL	10- 1040.00	KY-594	BRX	RIGHT OF WAY	$100,000	2001
ESTILL	10- 1040.00	KY-594	BRX	UTILITIES	$75,000	2001
ESTILL	10- 1040.00	KY-594	BRX	CONSTRUCTION	$250,000	2002
ESTILL	10- 1045.00	CR-5323	BRZ	CONSTRUCTION	$275,000	2001
ESTILL	10- 1053.00	KY-594	BRX	CONSTRUCTION	$150,000	2001
ESTILL	10- 5001.00	KY-89	SP	CONSTRUCTION	$262,700	2001
FAYETTE	07- 122.00	US-25	STP	RIGHT OF WAY	$4,300,000	2001
FAYETTE	07- 122.00	US-25	STP	UTILITIES	$3,000,000	2002
FAYETTE	07- 125.10	KY-4	STP	DESIGN	$200,000	2002
FAYETTE	07- 125.10	KY-4	STP	CONSTRUCTION	$9,000,000	2003
FAYETTE	07- 125.20	KY-4	STP	DESIGN	$200,000	2003
FAYETTE	07- 144.00	US-68	SP	DESIGN	$400,000	2004
FAYETTE	07- 325.01	US-25	SP	UTILITIES	$3,090,000	2001
FAYETTE	07- 325.01	US-25	SP	CONSTRUCTION	$2,500,000	2002
FAYETTE	07- 356.00	KY-169	SP	CONSTRUCTION	$125,000	2001
FAYETTE	07- 357.00	KY-169	SP	CONSTRUCTION	$125,000	2002
FAYETTE	07- 357.01	KY-169	SP	CONSTRUCTION	$125,000	2003
FAYETTE	07- 357.02	KY-169	SP	CONSTRUCTION	$125,000	2004
FAYETTE	07- 362.00	KY-4	STP	DESIGN	$250,000	2002
FAYETTE	07- 996.05	-	SLX	CONSTRUCTION	$5,800,000	2001
FAYETTE	07- 996.06	-	SLX	CONSTRUCTION	$5,800,000	2002
FAYETTE	07- 996.07	-	SLX	CONSTRUCTION	$5,800,000	2003
FAYETTE	07- 996.08	-	SLX	CONSTRUCTION	$5,800,000	2004
FAYETTE	07- 1071.00	CR-9999	BRO	CONSTRUCTION	$715,000	2001
FAYETTE	07- 1088.00	KY-1970	BRX	RIGHT OF WAY	$100,000	2002
FAYETTE	07- 1088.00	KY-1970	BRX	UTILITIES	$40,000	2002
FAYETTE	07- 1088.00	KY-1970	BRX	CONSTRUCTION	$200,000	2004
FAYETTE	07- 5004.00	US-421	SP	DESIGN	$80,000	2002
FAYETTE	07- 5004.00	US-421	SP	CONSTRUCTION	$750,000	2003
FLEMING	09- 174.50	KY-11	STP	RIGHT OF WAY	$750,000	2001
FLEMING	09- 174.50	KY-11	STP	UTILITIES	$500,000	2001
FLEMING	09- 174.50	KY-11	STP	CONSTRUCTION	$10,500,000	2003
FLOYD	12- 108.00	US-23	SP	DESIGN	$150,000	2004
FLOYD	12- 282.00	KY-122	SP	UTILITIES	$200,000	2001
FLOYD	12- 282.00	KY-122	SP	CONSTRUCTION	$2,250,000	2002
FLOYD	12- 293.00	KY-1428	STP	CONSTRUCTION	$3,000,000	2001
FLOYD	12- 301.00	KY-979	SP	UTILITIES	$2,000,000	2001
FLOYD	12- 301.00	KY-979	SP	CONSTRUCTION	$11,000,000	2003
FLOYD	12- 301.10	KY-680	SP	RIGHT OF WAY	$3,500,000	2001
FLOYD	12- 301.10	KY-680	SP	UTILITIES	$3,500,000	2001
FLOYD	12- 301.20	KY-979	SP	DESIGN	$1,200,000	2002
FLOYD	12- 301.20	KY-979	SP	RIGHT OF WAY	$3,500,000	2003
FLOYD	12- 402.00	KY-3384	SP	CONSTRUCTION	$2,100,000	2001

FLOYD	12- 1039.00	KY-550	BRO	CONSTRUCTION	$1,000,000	2002
FLOYD	12- 1040.00	KY-1428	BRX	CONSTRUCTION	$1,000,000	2001
FLOYD	12- 1041.00	KY-1428	BRX	CONSTRUCTION	$1,000,000	2001
FLOYD	12- 1047.00	CR-1390	BRZ	CONSTRUCTION	$600,000	2001
FLOYD	12- 1060.00	CR-1265	BRZ	DESIGN	$100,000	2001
FLOYD	12- 1060.00	CR-1265	BRZ	RIGHT OF WAY	$60,000	2003
FLOYD	12- 1060.00	CR-1265	BRZ	UTILITIES	$200,000	2003
FLOYD	12- 5004.00	KY-80	SP	RIGHT OF WAY	$20,000	2001
FLOYD	12- 5004.00	KY-80	SP	CONSTRUCTION	$800,000	2002
FLOYD	12- 5007.00	KY-80	SP	DESIGN	$210,000	2002
FLOYD	12- 5007.00	KY-80	SP	RIGHT OF WAY	$45,000	2003
FLOYD	12- 5009.00	KY-321	SP	DESIGN	$200,000	2004
FRANKLIN	05- 97.50	US-60	STP	RIGHT OF WAY	$800,000	2002
FRANKLIN	05- 97.50	US-60	STP	UTILITIES	$500,000	2004
FRANKLIN	05- 305.01	US-421	STP	RIGHT OF WAY	$800,000	2001
FRANKLIN	05- 305.01	US-421	STP	UTILITIES	$600,000	2003
FRANKLIN	05- 305.01	US-421	STP	CONSTRUCTION	$8,000,000	2004
FRANKLIN	05- 372.00	US-460	STP	RIGHT OF WAY	$4,500,000	2001
FRANKLIN	05- 372.00	US-460	STP	UTILITIES	$1,000,000	2003
FRANKLIN	05- 372.00	US-460	STP	CONSTRUCTION	$11,500,000	2004
FRANKLIN	05- 2005.00	I-64	IM	DESIGN	$210,000	2001
FRANKLIN	05- 2005.00	I-64	IM	CONSTRUCTION	$13,900,000	2003
FRANKLIN	05- 2023.00	US-60	SP	DESIGN	$50,000	2004
FRANKLIN	05- 5002.00	US-421	SP	DESIGN	$80,000	2001
FRANKLIN	05- 5002.00	US-421	SP	CONSTRUCTION	$750,000	2002
FRANKLIN	05- 5007.00	KY-1900	SP	DESIGN	$60,000	2004
FULTON	01- 319.00	KY-1354	SP	CONSTRUCTION	$125,000	2001
FULTON	01- 320.00	KY-1354	SP	CONSTRUCTION	$125,000	2002
FULTON	01- 320.01	KY-1354	SP	CONSTRUCTION	$125,000	2003
FULTON	01- 320.02	KY-1354	SP	CONSTRUCTION	$125,000	2004
FULTON	01- 1118.00	US-45	BRO	RIGHT OF WAY	$200,000	2001
FULTON	01- 1118.00	US-45	BRO	UTILITIES	$605,000	2001
FULTON	01- 1118.00	US-45	BRO	CONSTRUCTION	$1,200,000	2003
FULTON	01- 2008.00	PU-9003	SP	CONSTRUCTION	$900,000	2001
GALLATIN	06- 202.00	US-42	SP	RIGHT OF WAY	$250,000	2001
GALLATIN	06- 202.00	US-42	SP	UTILITIES	$100,000	2002
GALLATIN	06- 202.00	US-42	SP	CONSTRUCTION	$5,700,000	2003
GALLATIN	06- 333.00	-	SP	UTILITIES	$600,000	2001
GALLATIN	06- 333.01	-	STP	CONSTRUCTION	$10,000,000	2003
GALLATIN	06- 333.02	-	STP	CONSTRUCTION	$10,000,000	2004
GALLATIN	06- 358.00	KY-35	SP	UTILITIES	$200,000	2001
GALLATIN	06- 358.00	KY-35	SP	CONSTRUCTION	$2,000,000	2002
GALLATIN	06- 2005.00	I-71	IM	CONSTRUCTION	$3,300,000	2004
GALLATIN	06- 2006.00	I-71	IM	CONSTRUCTION	$2,000,000	2004
GALLATIN	06- 2007.00	I-71	IM	CONSTRUCTION	$2,000,000	2004
GARRARD	07- 26.01	US-27	NH	RIGHT OF WAY	$3,500,000	2001
GARRARD	07- 26.01	US-27	NH	UTILITIES	$1,500,000	2002

GARRARD	07- 26.01	US-27	NH	CONSTRUCTION	$12,000,000	2003
GARRARD	07- 26.02	US-27	NH	CONSTRUCTION	$4,000,000	2004
GARRARD	07- 302.03	KY-52	STP	CONSTRUCTION	$3,800,000	2002
GARRARD	07- 302.04	KY-52	STP	CONSTRUCTION	$7,453,000	2001
GRANT	06- 72.02	I-75	IM	CONSTRUCTION	$12,000,000	2001
GRANT	06- 72.03	I-75	NH	CONSTRUCTION	$9,000,000	2001
GRANT	06- 72.04	I-75	IM	CONSTRUCTION	$6,000,000	2002
GRANT	06- 72.05	I-75	NH	CONSTRUCTION	$17,000,000	2002
GRANT	06- 72.12	I-75	IM	CONSTRUCTION	$16,000,000	2004
GRANT	06- 72.13	I-75	NH	CONSTRUCTION	$10,000,000	2004
GRANT	06- 339.00	I-75	STP	CONSTRUCTION	$7,000,000	2002
GRANT	06- 345.00	-	SP	CONSTRUCTION	$9,200,000	2001
GRANT	06- 345.10	-	SP	UTILITIES	$250,000	2001
GRANT	06- 345.10	-	SP	CONSTRUCTION	$2,500,000	2003
GRANT	06- 5000.00	US-25	SP	CONSTRUCTION	$282,000	2001
GRAYSON	04- 122.00	KY-259	SP	DESIGN	$500,000	2004
GRAYSON	04- 193.00	US-62	SP	RIGHT OF WAY	$500,000	2001
GRAYSON	04- 193.00	US-62	SP	UTILITIES	$300,000	2002
GRAYSON	04- 193.00	US-62	SP	CONSTRUCTION	$3,000,000	2004
GRAYSON	04- 308.00	-	STP	DESIGN	$1,200,000	2003
GRAYSON	04- 1013.01	KY-259	STP	CONSTRUCTION	$10,700,000	2001
GRAYSON	04- 2005.00	WK-9001	NH	DESIGN	$25,000	2002
GRAYSON	04- 2005.00	WK-9001	NH	CONSTRUCTION	$1,200,000	2003
GRAYSON	04- 2008.00	WK-9001	STP	DESIGN	$70,000	2003
GRAYSON	04- 2008.00	WK-9001	STP	CONSTRUCTION	$4,100,000	2004
GRAYSON	04- 2009.00	WK-9001	STP	DESIGN	$70,000	2003
GRAYSON	04- 2009.00	WK-9001	STP	CONSTRUCTION	$4,000,000	2004
GREEN	04- 310.00	-	STP	DESIGN	$800,000	2003
GREENUP	09- 109.00	KY-8S	STP	CONSTRUCTION	$2,500,000	2004
GREENUP	09- 130.00	KY-1172	SP	CONSTRUCTION	$600,000	2001
GREENUP	09- 132.00	KY-2	SP	DESIGN	$500,000	2004
GREENUP	09- 212.11	-	SP	CONSTRUCTION	$20,000,000	2001
GREENUP	09- 212.20	-	SP	CONSTRUCTION	$8,000,000	2001
GREENUP	09- 212.21	-	SP	CONSTRUCTION	$12,000,000	2002
GREENUP	09- 212.30	-	SP	CONSTRUCTION	$19,000,000	2003
GREENUP	09- 1028.00	KY-503	BRO	CONSTRUCTION	$630,000	2002
GREENUP	09- 1038.00	KY-2541	BRX	RIGHT OF WAY	$70,000	2002
GREENUP	09- 1038.00	KY-2541	BRX	UTILITIES	$30,000	2002
GREENUP	09- 5001.00	KY-503	SP	RIGHT OF WAY	$100,000	2001
GREENUP	09- 5001.00	KY-503	SP	CONSTRUCTION	$570,000	2002
GREENUP	09- 5006.00	KY-1	SP	DESIGN	$35,000	2003
GREENUP	09- 5006.00	KY-1	SP	RIGHT OF WAY	$10,000	2004
GREENUP	09- 5006.00	KY-1	SP	UTILITIES	$20,000	2004
HANCOCK	02- 125.00	US-60	STP	DESIGN	$150,000	2004
HANCOCK	02- 216.00	CR-1102	BRZ	DESIGN	$50,000	2001
HANCOCK	02- 216.00	CR-1102	BRZ	RIGHT OF WAY	$50,000	2003
HANCOCK	02- 216.00	CR-1102	BRZ	UTILITIES	$50,000	2003

HANCOCK	02- 216.00	CR-1102	BRZ	CONSTRUCTION	$200,000	2004
HANCOCK	02- 2022.00	US-60	SP	CONSTRUCTION	$1,210,000	2004
HARDIN	04- 189.00	US-31W	SP	CONSTRUCTION	$500,000	2001
HARDIN	04- 190.00	US-31W	SP	UTILITIES	$1,750,000	2001
HARDIN	04- 190.00	US-31W	SP	CONSTRUCTION	$1,720,000	2002
HARDIN	04- 297.10	KY-313	STP	RIGHT OF WAY	$4,500,000	2001
HARDIN	04- 2001.00	I-65	IM	CONSTRUCTION	$1,800,000	2002
HARDIN	04- 2003.00	US-31W	SP	DESIGN	$100,000	2002
HARDIN	04- 2003.00	US-31W	SP	CONSTRUCTION	$4,400,000	2004
HARDIN	04- 2007.00	US-31WB	SP	DESIGN	$85,000	2003
HARDIN	04- 5002.00	US-31W	SP	CONSTRUCTION	$750,000	2002
HARDIN	04- 5003.00	BG-9002	SP	DESIGN	$65,000	2002
HARDIN	04- 5003.00	BG-9002	SP	CONSTRUCTION	$500,000	2003
HARDIN	04- 5004.00	BG-9002	SP	DESIGN	$65,000	2002
HARDIN	04- 5004.00	BG-9002	SP	RIGHT OF WAY	$25,000	2002
HARDIN	04- 5004.00	BG-9002	SP	CONSTRUCTION	$750,000	2003
HARDIN	04- 5005.00	I-65	SP	DESIGN	$100,000	2003
HARLAN	11- 254.00	US-421	SP	UTILITIES	$500,000	2001
HARLAN	11- 254.00	US-421	SP	CONSTRUCTION	$21,000,000	2002
HARLAN	11- 264.20	US-421	SP	CONSTRUCTION	$14,200,000	2001
HARLAN	11- 264.30	US-421	SP	CONSTRUCTION	$10,000,000	2001
HARLAN	11- 264.31	US-421	SP	CONSTRUCTION	$19,000,000	2002
HARLAN	11- 267.11	US-421	SP	DESIGN	$500,000	2003
HARLAN	11- 269.00	US-421	SP	RIGHT OF WAY	$5,500,000	2002
HARLAN	11- 269.00	US-421	SP	UTILITIES	$300,000	2004
HARLAN	11- 1036.00	KY-215	BRX	CONSTRUCTION	$470,000	2001
HARLAN	11- 1038.00	KY-215	BRX	CONSTRUCTION	$700,000	2001
HARLAN	11- 1049.00	KY-1601	BRX	RIGHT OF WAY	$50,000	2002
HARLAN	11- 1049.00	KY-1601	BRX	UTILITIES	$50,000	2002
HARLAN	11- 5003.00	KY-38	SP	DESIGN	$180,000	2002
HARLAN	11- 5003.00	KY-38	SP	RIGHT OF WAY	$40,000	2003
HARLAN	11- 5003.00	KY-38	SP	UTILITIES	$15,000	2003
HARLAN	11- 5003.00	KY-38	SP	CONSTRUCTION	$1,500,000	2004
HARLAN	11- 5004.00	KY-38	SP	DESIGN	$180,000	2002
HARLAN	11- 5004.00	KY-38	SP	RIGHT OF WAY	$50,000	2003
HARLAN	11- 5004.00	KY-38	SP	UTILITIES	$20,000	2003
HARRISON	06- 119.02	US-27	SP	RIGHT OF WAY	$2,400,000	2001
HARRISON	06- 119.02	US-27	SP	UTILITIES	$1,000,000	2002
HARRISON	06- 1043.00	CR-1062	BRZ	DESIGN	$200,000	2002
HART	04- 11.00	I-65	IM	CONSTRUCTION	$4,500,000	2001
HART	04- 11.10	I-65	IM	CONSTRUCTION	$4,500,000	2001
HART	04- 194.00	US-31W	SP	RIGHT OF WAY	$150,000	2001
HART	04- 194.00	US-31W	SP	UTILITIES	$100,000	2002
HART	04- 194.00	US-31W	SP	CONSTRUCTION	$600,000	2004
HENDERSON	02- 69.00	I-69	SP	DESIGN	$600,000	2002
HENDERSON	02- 79.10	US-60	SP	DESIGN	$1,200,000	2002
HENDERSON	02- 79.10	US-60	STP	RIGHT OF WAY	$2,500,000	2003

HENDERSON	02- 79.02	US-60	STP	RIGHT OF WAY	$4,000,000	2002
HENDERSON	02- 79.02	US-60	STP	UTILITIES	$2,000,000	2003
HENDERSON	02- 101.00	US-60	SAF	CONSTRUCTION	$3,500,000	2002
HENDERSON	02- 126.00	US-60	STP	DESIGN	$200,000	2001
HENDERSON	02- 126.00	US-60	STP	RIGHT OF WAY	$1,000,000	2003
HENDERSON	02- 380.00	US-60	SP	CONSTRUCTION	$600,000	2001
HENDERSON	02- 5000.00	AU-9005	SP	CONSTRUCTION	$285,500	2001
HENDERSON	02- 5001.00	AU-9005	SP	CONSTRUCTION	$350,000	2001
HENDERSON	02- 5004.00	AU-9005	SP	RIGHT OF WAY	$10,000	2001
HENDERSON	02- 5004.00	AU-9005	SP	CONSTRUCTION	$248,500	2002
HENRY	05- 2010.00	I-71	IM	CONSTRUCTION	$1,000,000	2002
HENRY	05- 5000.00	KY-389	SP	CONSTRUCTION	$628,700	2002
HICKMAN	01- 182.00	US-51	STP	DESIGN	$700,000	2002
HICKMAN	01- 1114.00	KY-1698	BRZ	CONSTRUCTION	$300,000	2002
HOPKINS	02- 211.00	KY-281	SP	UTILITIES	$810,000	2001
HOPKINS	02- 211.00	KY-281	SP	CONSTRUCTION	$3,200,000	2002
HOPKINS	02- 215.00	KY-70	SP	RIGHT OF WAY	$2,800,000	2001
HOPKINS	02- 215.00	KY-70	SP	UTILITIES	$2,650,000	2002
HOPKINS	02- 2007.00	PE-9004	SP	DESIGN	$80,000	2001
HOPKINS	02- 2007.00	PE-9004	STP	CONSTRUCTION	$5,500,000	2003
HOPKINS	02- 2010.00	PE-9004	SP	DESIGN	$200,000	2003
JACKSON	11- 113.00	US-421	STP	DESIGN	$200,000	2003
JEFFERSON	05- 15.00	I-264	IM	CONSTRUCTION	$3,500,000	2004
JEFFERSON	05- 21.00	I-265	IM	UTILITIES	$1,000,000	2002
JEFFERSON	05- 21.00	I-265	IM	CONSTRUCTION	$20,000,000	2003
JEFFERSON	05- 23.00	I-64	IM	DESIGN	$1,500,000	2001
JEFFERSON	05- 23.00	I-64	IM	CONSTRUCTION	$7,000,000	2003
JEFFERSON	05- 41.00	I-265	IM	RIGHT OF WAY	$2,000,000	2002
JEFFERSON	05- 41.00	I-265	IM	UTILITIES	$1,000,000	2003
JEFFERSON	05- 52.00	I-64	IM	RIGHT OF WAY	$2,500,000	2003
JEFFERSON	05- 52.00	I-64	IM	UTILITIES	$300,000	2003
JEFFERSON	05- 52.00	I-64	IM	CONSTRUCTION	$8,000,000	2004
JEFFERSON	05- 48.01	I-71	NH	RIGHT OF WAY	$4,000,000	2002
JEFFERSON	05- 48.01	I-71	NH	UTILITIES	$2,000,000	2004
JEFFERSON	05- 76.01	-	STP	CONSTRUCTION	$1,500,000	2002
JEFFERSON	05- 76.02	-	SLO	CONSTRUCTION	$4,750,000	2001
JEFFERSON	05- 91.02	-	SLO	CONSTRUCTION	$4,000,000	2003
JEFFERSON	05- 93.01	KY-1020	SLO	CONSTRUCTION	$3,750,000	2001
JEFFERSON	05- 93.02	KY-1020	SLO	CONSTRUCTION	$6,214,000	2002
JEFFERSON	05- 93.03	KY-1020	SLO	CONSTRUCTION	$2,036,000	2003
JEFFERSON	05- 110.00	US-31	NH	CONSTRUCTION	$2,500,000	2004
JEFFERSON	05- 118.02	-	SP	DESIGN	$3,000,000	2001
JEFFERSON	05- 118.10	-	SP	DESIGN	$6,000,000	2002
JEFFERSON	05- 118.11	-	SP	DESIGN	$6,000,000	2003
JEFFERSON	05- 118.20	-	SP	RIGHT OF WAY	$6,000,000	2004
JEFFERSON	05- 136.00	I-265	NH	CONSTRUCTION	$3,500,000	2004
JEFFERSON	05- 247.10	KY-1450	SP	UTILITIES	$3,700,000	2003

JEFFERSON	05- 247.20	KY-1450	SP	DESIGN	$300,000	2002
JEFFERSON	05- 322.00	-	SLO	CONSTRUCTION	$3,750,000	2001
JEFFERSON	05- 322.02	-	SLO	CONSTRUCTION	$10,087,000	2002
JEFFERSON	05- 323.01	KY-1931	SP	RIGHT OF WAY	$4,000,000	2002
JEFFERSON	05- 323.01	KY-1931	SP	UTILITIES	$3,500,000	2004
JEFFERSON	05- 325.01	KY-1447	SP	UTILITIES	$6,500,000	2001
JEFFERSON	05- 325.01	KY-1447	STP	CONSTRUCTION	$15,000,000	2002
JEFFERSON	05- 342.02	-	CM	CONSTRUCTION	$1,800,000	2002
JEFFERSON	05- 344.00	KY-1747	SP	DESIGN	$1,500,000	2003
JEFFERSON	05- 381.00	-	SLO	CONSTRUCTION	$444,000	2001
JEFFERSON	05- 382.00	-	SLO	CONSTRUCTION	$511,000	2002
JEFFERSON	05- 383.00	-	SLO	CONSTRUCTION	$588,000	2003
JEFFERSON	05- 384.00	-	SLO	CONSTRUCTION	$676,000	2004
JEFFERSON	05- 385.00	-	SLO	CONSTRUCTION	$2,000,000	2003
JEFFERSON	05- 386.00	-	SLO	RIGHT OF WAY	$250,000	2001
JEFFERSON	05- 386.00	-	SLO	UTILITIES	$375,000	2003
JEFFERSON	05- 386.00	-	SLO	CONSTRUCTION	$1,500,000	2004
JEFFERSON	05- 387.00	-	SLO	CONSTRUCTION	$1,000,000	2003
JEFFERSON	05- 430.02	KY-1020	SLO	CONSTRUCTION	$4,300,000	2003
JEFFERSON	05- 430.03	KY-1020	SP	CONSTRUCTION	$1,000,000	2001
JEFFERSON	05- 435.10	-	SP	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 965.08	-	SLO	CONSTRUCTION	$14,300,000	2004
JEFFERSON	05- 972.00	KY-42	SP	RIGHT OF WAY	$250,000	2002
JEFFERSON	05- 972.00	KY-42	SP	UTILITIES	$300,000	2002
JEFFERSON	05- 982.00	-	SLO	RIGHT OF WAY	$150,000	2003
JEFFERSON	05- 982.00	-	SLO	UTILITIES	$100,000	2004
JEFFERSON	05- 982.00	-	SLO	CONSTRUCTION	$400,000	2004
JEFFERSON	05- 1006.00	CR-9999	BRZ	CONSTRUCTION	$275,000	2002
JEFFERSON	05- 1012.05	-	CM	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 1012.06	-	CM	CONSTRUCTION	$1,500,000	2002
JEFFERSON	05- 1012.07	-	CM	CONSTRUCTION	$5,000,000	2003
JEFFERSON	05- 1012.08	-	CM	CONSTRUCTION	$3,400,000	2004
JEFFERSON	05- 1018.00	CR-9999	BRZ	RIGHT OF WAY	$100,000	2001
JEFFERSON	05- 1018.00	CR-9999	BRZ	UTILITIES	$75,000	2001
JEFFERSON	05- 2000.00	I-264	IM	DESIGN	$300,000	2001
JEFFERSON	05- 2000.00	I-264	IM	CONSTRUCTION	$10,000,000	2002
JEFFERSON	05- 2000.01	I-264	IM	CONSTRUCTION	$10,000,000	2003
JEFFERSON	05- 2001.00	I-264	IM	CONSTRUCTION	$8,700,000	2001
JEFFERSON	05- 2002.00	I-265	IM	DESIGN	$20,000	2002
JEFFERSON	05- 2002.00	I-265	IM	CONSTRUCTION	$6,200,000	2004
JEFFERSON	05- 2004.00	I-265	IM	CONSTRUCTION	$2,000,000	2001
JEFFERSON	05- 2007.00	I-64	IM	CONSTRUCTION	$5,000,000	2001
JEFFERSON	05- 2024.00	KY-841	SP	CONSTRUCTION	$1,820,000	2001
JEFFERSON	05- 2026.00	US-31W	SP	CONSTRUCTION	$350,000	2001
JEFFERSON	05- 2027.00	KY-1020	SP	CONSTRUCTION	$500,000	2001
JESSAMINE	07- 87.02	-	STP	RIGHT OF WAY	$2,500,000	2001
JESSAMINE	07- 87.02	-	STP	UTILITIES	$1,000,000	2002

JESSAMINE	07- 318.01	US-68	STP	RIGHT OF WAY	$2,500,000	2003
JESSAMINE	07- 318.01	US-68	STP	UTILITIES	$1,000,000	2004
JESSAMINE	07- 1078.00	KY-29	BRX	CONSTRUCTION	$850,000	2001
JESSAMINE	07- 5006.00	US-68	SP	DESIGN	$60,000	2003
JOHNSON	12- 294.00	KY-40	SP	CONSTRUCTION	$3,600,000	2001
JOHNSON	12- 1036.00	KY-40	BRO	CONSTRUCTION	$2,500,000	2002
JOHNSON	12- 5002.00	KY-1100	SP	CONSTRUCTION	$350,000	2002
JOHNSON	12- 5008.00	KY-321	SP	DESIGN	$220,000	2002
JOHNSON	12- 5008.00	KY-321	SP	RIGHT OF WAY	$60,000	2003
KENTON	06- 71.03	KY-1303	SNK	RIGHT OF WAY	$4,000,000	2002
KENTON	06- 71.03	KY-1303	SNK	UTILITIES	$1,000,000	2004
KENTON	06- 273.00	KY-1120	SNK	CONSTRUCTION	$4,500,000	2001
KENTON	06- 286.01	-	SP	RIGHT OF WAY	$250,000	2001
KENTON	06- 286.01	-	SP	UTILITIES	$200,000	2002
KENTON	06- 286.01	-	SP	CONSTRUCTION	$9,000,000	2004
KENTON	06- 300.00	-	STP	DESIGN	$2,100,000	2001
KENTON	06- 300.00	-	STP	CONSTRUCTION	$14,000,000	2002
KENTON	06- 313.10	KY-17	SP	UTILITIES	$1,000,000	2001
KENTON	06- 313.10	KY-17	SP	CONSTRUCTION	$10,000,000	2002
KENTON	06- 344.00	KY-16	SP	RIGHT OF WAY	$7,900,000	2002
KENTON	06- 344.00	KY-16	SNK	UTILITIES	$8,300,000	2003
KENTON	06- 1030.00	KY-8	BRO	UTILITIES	$1,300,000	2001
KENTON	06- 1030.00	KY-8	BRO	CONSTRUCTION	$2,800,000	2002
KENTON	06- 2003.00	I-275	IM	CONSTRUCTION	$1,000,000	2002
KENTON	06- 5002.00	KY-1072	SP	RIGHT OF WAY	$20,000	2001
KENTON	06- 5002.00	KY-1072	SP	CONSTRUCTION	$450,000	2002
KENTON	06- 5007.00	I-275	SP	DESIGN	$150,000	2002
KENTON	06- 5007.00	I-275	SP	CONSTRUCTION	$1,500,000	2004
KENTON	06- 5008.00	I-275	SP	DESIGN	$175,000	2002
KNOTT	12- 2000.00	KY-80	SP	DESIGN	$25,000	2004
KNOTT	12- 5000.00	KY-80	SP	CONSTRUCTION	$417,000	2001
KNOTT	12- 5001.00	KY-550	SP	RIGHT OF WAY	$5,000	2001
KNOTT	12- 5001.00	KY-550	SP	CONSTRUCTION	$173,900	2002
KNOTT	12- 5006.00	KY-80	SP	DESIGN	$210,000	2002
KNOTT	12- 5006.00	KY-80	SP	RIGHT OF WAY	$30,000	2003
KNOTT	12- 5006.00	KY-80	SP	CONSTRUCTION	$1,750,000	2004
KNOX	11- 112.00	-	SP	DESIGN	$400,000	2003
KNOX	11- 218.00	KY-11	SP	RIGHT OF WAY	$150,000	2001
KNOX	11- 218.00	KY-11	SP	UTILITIES	$50,000	2001
KNOX	11- 218.00	KY-11	SP	CONSTRUCTION	$405,000	2002
LARUE	04- 121.01	KY-210	STP	CONSTRUCTION	$8,000,000	2001
LARUE	04- 121.02	KY-210	STP	CONSTRUCTION	$12,000,000	2002
LARUE	04- 1047.00	KY-470	BRX	CONSTRUCTION	$350,000	2002
LARUE	04- 5006.00	KY-84	SP	DESIGN	$60,000	2004
LAUREL	11- 8.00	I-75	NH	CONSTRUCTION	$14,000,000	2003
LAUREL	11- 9.01	I-75	NH	CONSTRUCTION	$10,000,000	2003
LAUREL	11- 9.02	I-75	NH	CONSTRUCTION	$5,000,000	2004

LAUREL	11- 15.00	I-75	STP	CONSTRUCTION	$16,000,000	2003
LAUREL	11- 15.01	I-75	SP	CONSTRUCTION	$7,500,000	2003
LAUREL	11- 15.02	I-75	SP	CONSTRUCTION	$13,500,000	2004
LAUREL	11- 278.10	KY-30	SP	CONSTRUCTION	$10,000,000	2001
LAUREL	11- 278.12	KY-30	SP	CONSTRUCTION	$7,000,000	2003
LAUREL	11- 278.20	KY-30	SP	DESIGN	$2,500,000	2001
LAUREL	11- 278.20	KY-30	SP	RIGHT OF WAY	$4,000,000	2003
LAUREL	11- 1047.00	KY-1305	BRX	CONSTRUCTION	$200,000	2002
LAUREL	11- 2004.00	DB-9006	SP	CONSTRUCTION	$7,500,000	2002
LAUREL	11- 2004.01	DB-9006	SP	CONSTRUCTION	$8,700,000	2004
LAUREL	11- 2007.00	US-25E	SP	DESIGN	$50,000	2003
LAWRENCE	12- 3.00	US-23	NH	RIGHT OF WAY	$1,700,000	2001
LAWRENCE	12- 3.00	US-23	NH	UTILITIES	$750,000	2003
LAWRENCE	12- 3.00	US-23	NH	CONSTRUCTION	$8,500,000	2004
LAWRENCE	12- 284.00	KY-32	STP	DESIGN	$600,000	2004
LAWRENCE	12- 1033.00	KY-707	BRZ	CONSTRUCTION	$250,000	2002
LAWRENCE	12- 1034.00	KY-707	BRZ	CONSTRUCTION	$250,000	2002
LAWRENCE	12- 1063.00	CR-1124	BRZ	CONSTRUCTION	$500,000	2001
LEE	10- 292.00	KY-11	SP	DESIGN	$1,200,000	2002
LEE	10- 1056.00	CR-1147	BRZ	DESIGN	$75,000	2002
LEE	10- 1056.00	CR-1147	BRZ	RIGHT OF WAY	$50,000	2004
LEE	10- 1056.00	CR-1147	BRZ	UTILITIES	$50,000	2004
LESLIE	11- 12.00	US-421	STP	DESIGN	$500,000	2002
LESLIE	11- 119.00	DB-9006	SP	DESIGN	$400,000	2003
LETCHER	12- 121.00	KY-15	SP	DESIGN	$150,000	2003
LETCHER	12- 311.10	US-119	APD	CONSTRUCTION	$10,000,000	2001
LETCHER	12- 311.11	US-119	APD	CONSTRUCTION	$15,000,000	2003
LETCHER	12- 311.12	US-119	APD	CONSTRUCTION	$21,000,000	2004
LETCHER	12- 314.00	US-119	APD	DESIGN	$3,500,000	2001
LETCHER	12- 314.00	US-119	APD	RIGHT OF WAY	$4,152,000	2003
LETCHER	12- 314.00	US-119	APD	UTILITIES	$1,725,000	2004
LETCHER	12- 1059.00	CR-1371	BRZ	CONSTRUCTION	$550,000	2002
LETCHER	12- 1061.00	KY-113	BRX	CONSTRUCTION	$600,000	2002
LETCHER	12- 5003.00	KY-588	SP	CONSTRUCTION	$400,000	2002
LINCOLN	08- 161.00	US-150	STP	UTILITIES	$200,000	2001
LINCOLN	08- 161.00	US-150	STP	CONSTRUCTION	$4,500,000	2002
LINCOLN	08- 163.00	US-150	SP	DESIGN	$1,500,000	2001
LINCOLN	08- 163.00	US-150	STP	RIGHT OF WAY	$3,000,000	2003
LINCOLN	08- 5006.00	US-27	SP	DESIGN	$60,000	2003
LINCOLN	08- 5006.00	US-27	SP	RIGHT OF WAY	$50,000	2004
LINCOLN	08- 5006.00	US-27	SP	UTILITIES	$60,000	2004
LIVINGSTON	01- 184.00	US-60	SP	DESIGN	$750,000	2002
LIVINGSTON	01- 184.00	US-60	STP	RIGHT OF WAY	$1,250,000	2004
LIVINGSTON	01- 330.00	US-60	SP	DESIGN	$850,000	2003
LIVINGSTON	01- 1123.00	KY-952	BRX	CONSTRUCTION	$750,000	2001
LIVINGSTON	01- 2003.00	I-24	IM	CONSTRUCTION	$800,000	2002
LIVINGSTON	01- 5001.00	US-60	SP	RIGHT OF WAY	$10,000	2001

LIVINGSTON	01- 5001.00	US-60	SP	CONSTRUCTION	$350,000	2001
LOGAN	03- 148.00	-	SP	RIGHT OF WAY	$1,500,000	2002
LOGAN	03- 148.00	-	SP	UTILITIES	$500,000	2004
LYON	01- 307.01	US-62	SP	RIGHT OF WAY	$4,000,000	2002
LYON	01- 307.01	US-62	SP	UTILITIES	$4,000,000	2004
LYON	01- 5002.00	KY-295	SP	RIGHT OF WAY	$20,000	2001
LYON	01- 5002.00	KY-295	SP	UTILITIES	$15,000	2001
LYON	01- 5002.00	KY-295	SP	CONSTRUCTION	$450,000	2002
MADISON	07- 28.10	CR-1206	SP	RIGHT OF WAY	$350,000	2001
MADISON	07- 28.10	CR-1206	SP	UTILITIES	$2,400,000	2001
MADISON	07- 28.10	CR-1206	SP	CONSTRUCTION	$3,000,000	2002
MADISON	07- 214.00	KY-169	SP	RIGHT OF WAY	$1,500,000	2001
MADISON	07- 214.00	KY-169	SP	UTILITIES	$1,500,000	2003
MADISON	07- 214.00	KY-169	SP	CONSTRUCTION	$6,500,000	2004
MADISON	07- 309.00	KY-52	STP	UTILITIES	$1,710,000	2001
MADISON	07- 309.00	KY-52	STP	CONSTRUCTION	$9,250,000	2002
MADISON	07- 5003.00	KY-52	SP	DESIGN	$150,000	2001
MADISON	07- 5003.00	KY-52	SP	CONSTRUCTION	$1,250,000	2002
MAGOFFIN	10- 121.00	US-460	SP	DESIGN	$1,000,000	2003
MAGOFFIN	10- 280.00	US-460	STP	CONSTRUCTION	$4,500,000	2001
MAGOFFIN	12- 1.10	KY-114	NH	RIGHT OF WAY	$2,000,000	2001
MAGOFFIN	12- 1.10	KY-114	NH	UTILITIES	$1,500,000	2003
MAGOFFIN	12- 1.10	KY-114	NH	CONSTRUCTION	$15,000,000	2004
MARION	04- 192.00	US-68	SP	DESIGN	$1,200,000	2001
MARION	04- 192.00	US-68	SP	RIGHT OF WAY	$2,000,000	2003
MARION	04- 309.00	KY-49	STP	RIGHT OF WAY	$300,000	2001
MARION	04- 309.00	KY-49	STP	UTILITIES	$200,000	2001
MARSHALL	01- 180.70	US-68	BRO	UTILITIES	$150,000	2001
MARSHALL	01- 180.70	US-68	BRO	CONSTRUCTION	$7,000,000	2004
MARSHALL	01- 1117.00	KY-58	BRO	RIGHT OF WAY	$250,000	2001
MARSHALL	01- 1117.00	KY-58	BRO	UTILITIES	$1,275,000	2001
MARSHALL	01- 1117.00	KY-58	BRO	CONSTRUCTION	$2,000,000	2003
MARSHALL	01- 1121.00	US-68	BRO	CONSTRUCTION	$2,500,000	2002
MARSHALL	01- 1130.00	KY-1824	BRX	RIGHT OF WAY	$75,000	2001
MARSHALL	01- 1130.00	KY-1824	BRX	UTILITIES	$295,000	2001
MARSHALL	01- 1130.00	KY-1824	BRX	CONSTRUCTION	$500,000	2003
MARSHALL	01- 5000.00	KY-80	SP	CONSTRUCTION	$150,000	2001
MARSHALL	01- 5003.00	PU-9003	SP	DESIGN	$60,000	2001
MARSHALL	01- 5003.00	PU-9003	SP	RIGHT OF WAY	$10,000	2002
MARSHALL	01- 5003.00	PU-9003	SP	CONSTRUCTION	$450,000	2004
MARTIN	12- 154.01	KY-40	SP	CONSTRUCTION	$4,000,000	2001
MARTIN	12- 154.02	KY-40	STP	CONSTRUCTION	$11,000,000	2001
MARTIN	12- 154.03	KY-40	STP	CONSTRUCTION	$25,000,000	2002
MARTIN	12- 154.04	KY-40	STP	CONSTRUCTION	$15,000,000	2003
MARTIN	12- 154.10	KY-40	STP	RIGHT OF WAY	$3,000,000	2001
MARTIN	12- 154.10	KY-40	STP	UTILITIES	$3,000,000	2003
MARTIN	12- 285.00	KY-40	SP	DESIGN	$250,000	2004

MARTIN	12- 1052.00	CR-9999	BRZ	CONSTRUCTION	$450,000	2002
MASON	09- 108.00	US-62	STP	CONSTRUCTION	$6,000,000	2002
MASON	09- 124.01	US-68	NH	RIGHT OF WAY	$4,000,000	2001
MASON	09- 124.01	US-68	NH	UTILITIES	$3,500,000	2001
MASON	09- 124.01	US-68	NH	CONSTRUCTION	$17,000,000	2002
MASON	09- 145.00	-	SP	CONSTRUCTION	$1,150,000	2001
MCCRACKEN	01- 115.10	US-60	SP	DESIGN	$400,000	2001
MCCRACKEN	01- 115.10	US-60	SP	RIGHT OF WAY	$1,250,000	2003
MCCRACKEN	01- 186.00	US-45	STP	CONSTRUCTION	$2,500,000	2004
MCCRACKEN	01- 260.00	US-62	STP	UTILITIES	$3,400,000	2001
MCCRACKEN	01- 260.00	US-62	STP	CONSTRUCTION	$3,000,000	2002
MCCRACKEN	01- 310.01	-	SP	RIGHT OF WAY	$3,000,000	2002
MCCRACKEN	01- 310.01	-	SP	UTILITIES	$2,000,000	2004
MCCRACKEN	01- 1115.00	US-60	BRO	RIGHT OF WAY	$5,000,000	2001
MCCRACKEN	01- 1115.00	US-60	BRO	UTILITIES	$3,000,000	2003
MCCRACKEN	01- 1124.00	KY-998	BRX	RIGHT OF WAY	$500,000	2001
MCCRACKEN	01- 1124.00	KY-998	BRX	UTILITIES	$1,000,000	2001
MCCRACKEN	01- 1124.00	KY-998	BRX	CONSTRUCTION	$2,000,000	2002
MCCREARY	08- 262.01	US-27	SP	CONSTRUCTION	$3,500,000	2001
MCCREARY	08- 1012.00	CR-5236	BRZ	RIGHT OF WAY	$200,000	2001
MCCREARY	08- 1012.00	CR-5236	BRZ	UTILITIES	$150,000	2001
MCLEAN	02- 9.00	US-431	STP	RIGHT OF WAY	$600,000	2002
MCLEAN	02- 9.00	US-431	STP	UTILITIES	$400,000	2004
MCLEAN	02- 1049.00	KY-136	BRO	RIGHT OF WAY	$50,000	2002
MCLEAN	02- 1049.00	KY-136	BRO	UTILITIES	$50,000	2002
MCLEAN	02- 1049.00	KY-136	BRO	CONSTRUCTION	$250,000	2004
MEADE	04- 53.00	KY-313	SP	DESIGN	$1,800,000	2001
MEADE	04- 53.01	KY-313	STP	RIGHT OF WAY	$6,500,000	2003
MEADE	04- 2006.00	US-31W	SP	DESIGN	$30,000	2001
MEADE	04- 2006.00	US-31W	SP	CONSTRUCTION	$1,200,000	2003
MEADE	04- 5001.00	KY-230	SP	CONSTRUCTION	$325,000	2002
MENIFEE	10- 117.01	US-460	STP	RIGHT OF WAY	$2,000,000	2002
MENIFEE	10- 117.01	US-460	STP	UTILITIES	$1,500,000	2004
MENIFEE	10- 1054.00	KY-713	BRX	RIGHT OF WAY	$600,000	2001
MENIFEE	10- 1054.00	KY-713	BRX	UTILITIES	$75,000	2001
MENIFEE	10- 1054.00	KY-713	BRX	CONSTRUCTION	$360,000	2002
MENIFEE	10- 5008.00	KY-1274	SP	DESIGN	$100,000	2004
MERCER	07- 1075.00	KY-152	BRO	RIGHT OF WAY	$150,000	2001
MERCER	07- 1075.00	KY-152	BRO	UTILITIES	$75,000	2001
MERCER	07- 1089.00	KY-1988	BRX	RIGHT OF WAY	$50,000	2002
MERCER	07- 1089.00	KY-1988	BRX	UTILITIES	$30,000	2003
MERCER	07- 1089.00	KY-1988	BRX	CONSTRUCTION	$150,000	2004
METCALFE	03- 1050.00	KY-640	BRX	CONSTRUCTION	$350,000	2002
MONROE	03- 276.01	KY-163	SP	DESIGN	$800,000	2001
MONROE	03- 276.01	KY-163	STP	RIGHT OF WAY	$2,500,000	2003
MONTGOMERY	07- 83.00	US-60	STP	CONSTRUCTION	$600,000	2001
MONTGOMERY	07- 124.00	US-460	SP	RIGHT OF WAY	$500,000	2003

MONTGOMERY	07- 124.00	US-460	SP	UTILITIES	$300,000	2003
MONTGOMERY	07- 317.00	KY-11	SP	RIGHT OF WAY	$2,000,000	2002
MONTGOMERY	07- 317.00	KY-11	SP	UTILITIES	$1,500,000	2002
MONTGOMERY	07- 1079.00	KY-599	BRX	CONSTRUCTION	$350,000	2002
MONTGOMERY	07- 2000.00	I-64	IM	DESIGN	$250,000	2001
MONTGOMERY	07- 2000.00	I-64	IM	CONSTRUCTION	$10,000,000	2001
MONTGOMERY	07- 2000.01	I-64	IM	CONSTRUCTION	$7,000,000	2002
MORGAN	10- 130.00	US-460	SP	RIGHT OF WAY	$650,000	2002
MORGAN	10- 130.00	US-460	SP	UTILITIES	$120,000	2004
MORGAN	10- 291.00	KY-7	SP	CONSTRUCTION	$7,000,000	2001
MORGAN	10- 1037.00	US-460	BRO	CONSTRUCTION	$425,000	2002
MORGAN	10- 7000.00	KY-519	SP	RIGHT OF WAY	$100,000	2002
MORGAN	10- 7000.00	KY-519	SP	UTILITIES	$100,000	2002
MORGAN	10- 7000.00	KY-519	SP	CONSTRUCTION	$3,000,000	2004
MUHLENBERG	02- 313.00	KY-181	SP	DESIGN	$800,000	2002
MUHLENBERG	02- 1015.00	CR-1412	BRZ	CONSTRUCTION	$225,000	2001
MUHLENBERG	02- 2005.00	WK-9001	SP	CONSTRUCTION	$4,000,000	2001
MUHLENBERG	02- 2006.00	WK-9001	SP	CONSTRUCTION	$3,500,000	2002
MUHLENBERG	02- 5006.00	US-431	SP	RIGHT OF WAY	$20,000	2001
MUHLENBERG	02- 5006.00	US-431	SP	UTILITIES	$10,000	2001
MUHLENBERG	02- 5006.00	US-431	SP	CONSTRUCTION	$120,000	2002
NELSON	04- 184.00	US-62	STP	RIGHT OF WAY	$4,000,000	2002
NELSON	04- 184.00	US-62	STP	UTILITIES	$400,000	2003
NELSON	04- 191.00	BG-9002	NH	CONSTRUCTION	$590,000	2002
NELSON	04- 285.00	US-31E	SP	RIGHT OF WAY	$750,000	2002
NELSON	04- 285.00	US-31E	SP	UTILITES	$500,000	2002
NELSON	04- 287.00	US-31E	SP	RIGHT OF WAY	$1,500,000	2002
NELSON	04- 287.00	US-31E	SP	UTILITES	$1,000,000	2002
NELSON	04- 295.10	KY-245	SP	UTILITIES	$200,000	2001
NELSON	04- 295.10	KY-245	SP	CONSTRUCTION	$1,000,000	2002
NELSON	04- 311.00	US-31E	STP	RIGHT OF WAY	$1,500,000	2001
NELSON	04- 311.00	US-31E	STP	UTILTIES	$500,000	2002
NELSON	04- 1049.00	KY-509	BRX	CONSTRUCTION	$400,000	2003
NELSON	04- 2004.00	BG-9002	NH	DESIGN	$60,000	2002
NELSON	04- 2004.00	BG-9002	NH	CONSTRUCTION	$5,250,000	2002
OHIO	02- 5003.00	WN-9007	SP	CONSTRUCTION	$82,300	2002
OLDHAM	05- 230.00	KY-393	STP	CONSTRUCTION	$4,000,000	2001
OLDHAM	05- 230.01	KY-393	STP	CONSTRUCTION	$6,300,000	2002
OLDHAM	05- 304.01	KY-22	STP	RIGHT OF WAY	$3,300,000	2001
OLDHAM	05- 304.01	KY-22	STP	UTILITIES	$1,600,000	2002
OLDHAM	05- 367.00	-	STP	UTILITIES	$3,000,000	2003
OLDHAM	05- 5005.00	KY-1793	SP	DESIGN	$75,000	2002
OWSLEY	10- 279.50	KY-30	SP	DESIGN	$500,000	2001
OWSLEY	10- 1034.00	KY-30	BRO	CONSTRUCTION	$2,800,000	2001
OWSLEY	10- 5003.00	KY-847	SP	CONSTRUCTION	$265,600	2001
OWSLEY	10- 5004.00	KY-28	SP	DESIGN	$180,000	2001
OWSLEY	10- 5004.00	KY-28	SP	RIGHT OF WAY	$25,000	2002

OWSLEY	10- 5004.00	KY-28	SP	CONSTRUCTION	$1,500,000	2003
PENDLETON	06- 276.00	US-27	STP	CONSTRUCTION	$4,500,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	RIGHT OF WAY	$160,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	UTILITIES	$100,000	2001
PENDLETON	06- 1042.00	CR-1117	BRZ	CONSTRUCTION	$1,000,000	2002
PERRY	10- 114.00	KY-7	STP	RIGHT OF WAY	$1,000,000	2001
PERRY	10- 114.00	KY-7	STP	UTILITIES	$750,000	2002
PERRY	10- 114.00	KY-7	STP	CONSTRUCTION	$13,100,000	2003
PERRY	10- 114.02	KY-7	STP	CONSTRUCTION	$6,000,000	2004
PERRY	10- 122.00	DB-9006	SP	DESIGN	$500,000	2003
PERRY	10- 269.01	KY-15	STP	CONSTRUCTION	$11,500,000	2002
PERRY	10- 269.02	KY-15	NH	CONSTRUCTION	$17,000,000	2001
PERRY	10- 1021.00	-	BRZ	RIGHT OF WAY	$696,000	2002
PERRY	10- 1021.00	-	BRZ	UTILITIES	$250,000	2002
PERRY	10- 5000.00	KY-476	SP	CONSTRUCTION	$307,600	2001
PERRY	10- 5002.00	KY-476	SP	CONSTRUCTION	$63,400	2001
PERRY	10- 5005.00	KY-7	SP	RIGHT OF WAY	$50,000	2001
PERRY	10- 5005.00	KY-7	SP	CONSTRUCTION	$1,750,000	2003
PERRY	10- 5006.00	KY-80	SP	DESIGN	$210,000	2002
PERRY	10- 5006.00	KY-80	SP	RIGHT OF WAY	$30,000	2003
PERRY	10- 5006.00	KY-80	SP	CONSTRUCTION	$1,750,000	2004
PIKE	12- 131.00	US-23	NH	DESIGN	$400,000	2001
PIKE	12- 131.00	US-23	NH	RIGHT OF WAY	$1,000,000	2003
PIKE	12- 131.00	US-23	NH	UTILITIES	$1,000,000	2004
PIKE	12- 131.01	US-23	NH	DESIGN	$400,000	2002
PIKE	12- 263.10	US-460	SP	CONSTRUCTION	$13,500,000	2002
PIKE	12- 263.11	US-460	SP	CONSTRUCTION	$10,000,000	2003
PIKE	12- 263.15	US-460	SP	RIGHT OF WAY	$4,000,000	2001
PIKE	12- 263.15	US-460	APD	UTILITIES	$2,000,000	2003
PIKE	12- 263.22	US-460	APD	DESIGN	$1,000,000	2001
PIKE	12- 263.22	US-460	APD	RIGHT OF WAY	$5,000,000	2003
PIKE	12- 263.24	US-460	APD	DESIGN	$1,000,000	2003
PIKE	12- 264.21	US-119	NH	CONSTRUCTION	$11,000,000	2002
PIKE	12- 264.22	US-119	NH	CONSTRUCTION	$4,000,000	2003
PIKE	12- 281.00	KY-194	SP	DESIGN	$200,000	2003
PIKE	12- 298.00	KY-199	SP	RIGHT OF WAY	$2,500,000	2002
PIKE	12- 298.00	KY-199	SP	UTILITIES	$300,000	2002
PIKE	12- 308.12	US-119	NH	CONSTRUCTION	$11,000,000	2001
PIKE	12- 308.21	US-119	APD	CONSTRUCTION	$11,000,000	2002
PIKE	12- 308.30	US-119	APD	CONSTRUCTION	$7,000,000	2001
PIKE	12- 308.31	US-119	APD	CONSTRUCTION	$13,000,000	2002
PIKE	12- 308.32	US-119	APD	CONSTRUCTION	$14,000,000	2003
PIKE	12- 308.33	US-119	STP	CONSTRUCTION	$20,000,000	2004
PIKE	12- 308.40	US-119	APD	CONSTRUCTION	$20,000,000	2004
PIKE	12- 1037.00	KY-1499	BRO	CONSTRUCTION	$700,000	2003
PIKE	12- 1042.00	KY-2061	BRX	CONSTRUCTION	$425,000	2002
PIKE	12- 1043.00	KY-3419	BRX	CONSTRUCTION	$350,000	2002

PIKE	12- 1050.00	CR-1559	BRZ	CONSTRUCTION	$300,000	2001
PIKE	12- 1051.00	CR-5116	BRZ	RIGHT OF WAY	$50,000	2001
PIKE	12- 1051.00	CR-5116	BRZ	UTILITIES	$100,000	2001
PIKE	12- 1057.00	KY-292	BRO	RIGHT OF WAY	$200,000	2002
PIKE	12- 1057.00	KY-292	BRO	UTILITIES	$300,000	2002
PIKE	12- 1057.00	KY-292	BRO	CONSTRUCTION	$1,400,000	2004
PIKE	12- 1062.00	KY-199	BRX	CONSTRUCTION	$375,000	2002
PIKE	12- 5005.00	US-23	SP	DESIGN	$250,000	2001
PIKE	12- 5005.00	US-23	SP	RIGHT OF WAY	$80,000	2002
PIKE	12- 5005.00	US-23	SP	CONSTRUCTION	$2,500,000	2003
PIKE	12- 5010.00	KY-1426	SP	DESIGN	$300,000	2001
POWELL	10- 118.01	KY-213	STP	UTILITIES	$750,000	2001
POWELL	10- 118.01	KY-213	STP	CONSTRUCTION	$1,720,000	2002
POWELL	10- 1055.00	KY-1639	BRX	CONSTRUCTION	$363,000	2002
PULASKI	08- 55.10	US-27	NH	UTILITIES	$3,000,000	2001
PULASKI	08- 55.10	US-27	NH	CONSTRUCTION	$10,000,000	2002
PULASKI	08- 55.11	US-27	NH	CONSTRUCTION	$10,000,000	2003
PULASKI	08- 138.03	US-27	BRO	CONSTRUCTION	$9,000,000	2001
PULASKI	08- 259.01	-	STP	RIGHT OF WAY	$5,500,000	2001
PULASKI	08- 259.01	-	STP	UTILITIES	$2,500,000	2003
PULASKI	08- 268.01	-	SP	CONSTRUCTION	$2,500,000	2001
PULASKI	08- 270.00	KY-1247	SP	RIGHT OF WAY	$3,750,000	2002
PULASKI	08- 270.00	KY-1247	SP	UTILITIES	$970,000	2004
PULASKI	08- 1009.01	KY-90	BRO	CONSTRUCTION	$5,000,000	2001
PULASKI	08- 1009.02	KY-90	BRO	CONSTRUCTION	$12,000,000	2002
PULASKI	08- 1009.03	KY-90	BRO	CONSTRUCTION	$13,000,000	2003
PULASKI	08- 5003.00	US-27	SP	DESIGN	$70,000	2001
PULASKI	08- 5003.00	US-27	SP	RIGHT OF WAY	$200,000	2002
PULASKI	08- 5003.00	US-27	SP	UTILITIES	$75,000	2002
PULASKI	08- 5003.00	US-27	SP	CONSTRUCTION	$1,600,000	2003
PULASKI	08- 5004.00	CU-9008	SP	DESIGN	$50,000	2001
PULASKI	08- 5004.00	CU-9008	SP	RIGHT OF WAY	$20,000	2002
PULASKI	08- 5004.00	CU-9008	SP	CONSTRUCTION	$2,350,000	2004
ROBERTSON	06- 121.00	KY-165	SP	RIGHT OF WAY	$500,000	2001
ROBERTSON	06- 121.00	KY-165	SP	UTILITIES	$300,000	2001
ROBERTSON	06- 348.00	CR-1302	BRZ	RIGHT OF WAY	$35,000	2001
ROBERTSON	06- 348.00	CR-1302	BRZ	UTILITIES	$30,000	2001
ROCKCASTLE	08- 4.00	I-75	IM	CONSTRUCTION	$4,000,000	2002
ROCKCASTLE	08- 4.01	I-75	NH	CONSTRUCTION	$10,000,000	2002
ROCKCASTLE	08- 163.10	US-150	STP	DESIGN	$1,000,000	2002
ROCKCASTLE	08- 163.10	US-150	STP	RIGHT OF WAY	$3,000,000	2004
ROWAN	09- 142.00	KY-32	SP	CONSTRUCTION	$2,500,000	2001
ROWAN	09- 156.01	KY-519	STP	RIGHT OF WAY	$2,000,000	2001
ROWAN	09- 156.01	KY-519	STP	UTILITIES	$1,500,000	2002
ROWAN	09- 156.01	KY-519	STP	CONSTRUCTION	$12,500,000	2004
ROWAN	09- 300.00	I-64	STP	DESIGN	$280,000	2001
ROWAN	09- 300.00	I-64	STP	CONSTRUCTION	$7,000,000	2001

ROWAN	09- 301.00	-	STP	RIGHT OF WAY	$1,000,000	2001
ROWAN	09- 301.00	-	STP	UTILITIES	$1,000,000	2001
ROWAN	09- 301.00	-	STP	CONSTRUCTION	$4,400,000	2004
ROWAN	09- 1026.00	KY-32	BRO	CONSTRUCTION	$500,000	2002
ROWAN	09- 1040.00	CR-1222	BRZ	DESIGN	$50,000	2002
ROWAN	09- 1040.00	CR-1222	BRZ	RIGHT OF WAY	$50,000	2004
ROWAN	09- 1040.00	CR-1222	BRZ	UTILITIES	$150,000	2004
ROWAN	09- 5007.00	I-64	SP	DESIGN	$60,000	2004
ROWAN	09- 7010.00	-	SP	CONSTRUCTION	$1,100,000	2001
RUSSELL	08- 54.01	US-127	SP	DESIGN	$300,000	2001
RUSSELL	08- 54.01	US-127	STP	RIGHT OF WAY	$5,500,000	2003
RUSSELL	08- 5007.00	US-127	SP	DESIGN	$35,000	2004
SCOTT	06- 72.21	I-75	NH	UTILITIES	$500,000	2001
SCOTT	07- 86.00	US-460	STP	UTILITIES	$700,000	2001
SCOTT	07- 86.00	US-460	STP	CONSTRUCTION	$5,000,000	2002
SCOTT	07- 102.01	-	STP	RIGHT OF WAY	$6,000,000	2004
SCOTT	07- 209.20	-	SP	CONSTRUCTION	$3,675,000	2001
SCOTT	07- 212.00	US-460	SP	DESIGN	$300,000	2001
SCOTT	07- 212.00	US-460	STP	RIGHT OF WAY	$750,000	2003
SCOTT	07- 298.00	US-62	SP	UTILITIES	$750,000	2001
SCOTT	07- 298.00	US-62	STP	CONSTRUCTION	$9,000,000	2002
SCOTT	07- 1042.00	CR-1218	BRZ	CONSTRUCTION	$500,000	2001
SCOTT	07- 1076.00	KY-32	BRO	UTILITIES	$75,000	2001
SCOTT	07- 1076.00	KY-32	BRO	CONSTRUCTION	$200,000	2002
SCOTT	07- 5000.00	KY-620	SP	CONSTRUCTION	$342,000	2001
SHELBY	05- 172.00	KY-395	STP	RIGHT OF WAY	$4,000,000	2002
SHELBY	05- 172.00	KY-395	STP	UTILITIES	$800,000	2003
SHELBY	05- 326.01	-	SP	RIGHT OF WAY	$5,000,000	2002
SHELBY	05- 326.01	-	SP	UTILITIES	$2,000,000	2003
SHELBY	05- 326.01	-	SP	CONSTRUCTION	$18,000,000	2004
SHELBY	05- 1021.00	US-60	BRO	RIGHT OF WAY	$50,000	2002
SHELBY	05- 1021.00	US-60	BRO	UTILITIES	$50,000	2002
SHELBY	05- 1021.00	US-60	BRO	CONSTRUCTION	$200,000	2004
SHELBY	05- 2006.00	I-64	IM	DESIGN	$150,000	2002
SHELBY	05- 2011.00	KY-53	SP	CONSTRUCTION	$4,000,000	2001
SHELBY	05- 2012.00	US-60	SP	CONSTRUCTION	$100,000	2001
SIMPSON	03- 8.00	US-31W	STP	RIGHT OF WAY	$5,500,000	2001
SIMPSON	03- 8.00	US-31W	STP	UTILITIES	$2,500,000	2001
SIMPSON	03- 197.00	KY-100	SP	CONSTRUCTION	$1,000,000	2001
SIMPSON	03- 1052.00	KY-73	BRO	RIGHT OF WAY	$75,000	2002
SIMPSON	03- 1052.00	KY-73	BRO	UTILITIES	$50,000	2002
SIMPSON	03- 1052.00	KY-73	BRO	CONSTRUCTION	$300,000	2004
SPENCER	05- 307.00	KY-2450	SP	CONSTRUCTION	$2,500,000	2001
SPENCER	05- 347.00	KY-44	STP	DESIGN	$1,000,000	2003
SPENCER	05- 5001.00	KY-44	SP	CONSTRUCTION	$250,000	2002
SPENCER	05- 5006.00	KY-55	SP	DESIGN	$45,000	2003
TAYLOR	04- 114.00	KY-210	SP	DESIGN	$350,000	2004

TAYLOR	04- 1037.00	CR-1210	BRZ	CONSTRUCTION	$200,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	RIGHT OF WAY	$50,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	UTILITIES	$50,000	2002
TAYLOR	04- 1053.00	KY-70	BRO	CONSTRUCTION	$500,000	2004
TAYLOR	04- 5000.00	US-68	SP	CONSTRUCTION	$550,000	2001
TODD	03- 2003.00	US-79	SP	CONSTRUCTION	$3,000,000	2002
TODD	03- 2004.00	KY-346	SP	CONSTRUCTION	$1,400,000	2001
TRIGG	01- 180.51	US-68	STP	RIGHT OF WAY	$4,900,000	2001
TRIGG	01- 180.51	US-68	STP	UTILITIES	$7,745,000	2002
TRIGG	01- 180.51	US-68	STP	CONSTRUCTION	$8,000,000	2004
TRIGG	01- 180.52	US-68	SP	RIGHT OF WAY	$50,000	2001
TRIGG	01- 180.52	US-68	SP	UTILITIES	$1,250,000	2001
TRIGG	01- 180.52	US-68	SP	CONSTRUCTION	$14,000,000	2003
TRIGG	01- 180.53	US-68	SP	RIGHT OF WAY	$50,000	2001
TRIGG	01- 180.53	US-68	SP	UTILITIES	$500,000	2001
TRIGG	01- 180.53	US-68	SP	CONSTRUCTION	$10,500,000	2003
TRIGG	01- 180.60	US-68	BRO	UTILITIES	$150,000	2001
TRIGG	01- 180.60	US-68	BRO	CONSTRUCTION	$8,000,000	2003
TRIGG	01- 180.61	US-68	STP	CONSTRUCTION	$11,000,000	2004
TRIGG	01- 1120.00	KY-139	BRO	RIGHT OF WAY	$250,000	2001
TRIGG	01- 1120.00	KY-139	BRO	UTILITIES	$260,000	2001
TRIGG	01- 1120.00	KY-139	BRO	CONSTRUCTION	$1,780,000	2003
TRIGG	01- 1131.00	KY-272	BRX	RIGHT OF WAY	$300,000	2002
TRIGG	01- 1131.00	KY-272	BRX	UTILITIES	$300,000	2002
TRIMBLE	05- 5003.00	US-42	SP	DESIGN	$65,000	2001
TRIMBLE	05- 5003.00	US-42	SP	CONSTRUCTION	$500,000	2002
UNION	02- 79.20	US-60	SP	DESIGN	$1,800,000	2004
UNION	02- 102.00	KY-56	STP	CONSTRUCTION	$2,500,000	2002
UNION	02- 122.01	US-60	STP	RIGHT OF WAY	$1,500,000	2001
UNION	02- 122.01	US-60	STP	UTILITIES	$1,000,000	2002
UNION	02- 122.01	US-60	STP	CONSTRUCTION	$15,000,000	2003
UNION	02- 123.01	US-60	STP	RIGHT OF WAY	$1,000,000	2001
UNION	02- 123.01	US-60	STP	UTILITIES	$750,000	2003
UNION	02- 123.01	US-60	STP	CONSTRUCTION	$10,500,000	2004
UNION	02- 294.01	US-60	STP	CONSTRUCTION	$4,750,000	2001
UNION	02- 1048.00	KY-948	BRX	CONSTRUCTION	$130,000	2002
UNION	02- 2023.00	KY-109	SP	CONSTRUCTION	$1,210,000	2001
WARREN	03- 5.00	I-65	IM	CONSTRUCTION	$12,000,000	2004
WARREN	03- 6.00	I-65	NH	CONSTRUCTION	$5,000,000	2004
WARREN	03- 6.01	I-65	IM	CONSTRUCTION	$4,000,000	2004
WARREN	03- 11.00	I-65	STP	CONSTRUCTION	$15,000,000	2004
WARREN	03- 11.01	I-65	SP	CONSTRUCTION	$14,000,000	2004
WARREN	03- 53.00	-	NH	CONSTRUCTION	$7,000,000	2002
WARREN	03- 53.01	-	NH	CONSTRUCTION	$10,000,000	2003
WARREN	03- 146.31	US-231	STP	CONSTRUCTION	$5,000,000	2001
WARREN	03- 252.10	KY-234	STP	CONSTRUCTION	$6,000,000	2001
WARREN	03- 290.01	KY-880	SP	RIGHT OF WAY	$4,500,000	2001

WARREN	03- 290.01	KY-880	SP	UTILITIES	$2,500,000	2003
WARREN	03- 310.00	-	SP	UTILITIES	$750,000	2002
WARREN	03- 310.00	-	SP	CONSTRUCTION	$3,200,000	2004
WARREN	03- 312.00	US-31W	STP	RIGHT OF WAY	$2,500,000	2001
WARREN	03- 312.00	US-31W	STP	UTILITIES	$2,000,000	2003
WARREN	03- 316.00	KY-2158	SP	RIGHT OF WAY	$2,000,000	2001
WARREN	03- 316.00	KY-2158	SP	UTILITIES	$2,500,000	2003
WARREN	03- 317.00	US-31W	STP	DESIGN	$500,000	2003
WASHINGTON	04- 103.05	US-150	STP	CONSTRUCTION	$4,200,000	2001
WASHINGTON	04- 284.01	KY-555	STP	UTILITIES	$1,000,000	2001
WASHINGTON	04- 284.01	KY-555	STP	CONSTRUCTION	$19,600,000	2003
WASHINGTON	04- 307.00	US-150	STP	DESIGN	$500,000	2001
WASHINGTON	04- 307.00	US-150	STP	RIGHT OF WAY	$2,000,000	2003
WEBSTER	02- 128.00	US-41A	SP	DESIGN	$250,000	2003
WEBSTER	02- 5007.00	PE-9004	SP	CONSTRUCTION	$650,000	2001
WHITLEY	11- 14.00	I-75	NH	DESIGN	$3,000,000	2001
WHITLEY	11- 14.01	I-75	IM	DESIGN	$3,000,000	2001
WHITLEY	11- 120.00	US-25W	SP	RIGHT OF WAY	$800,000	2002
WHITLEY	11- 120.00	US-25W	SP	UTILITIES	$450,000	2003
WHITLEY	11- 120.00	US-25W	SP	CONSTRUCTION	$4,000,000	2004
WHITLEY	08- 261.10	KY-92	SP	RIGHT OF WAY	$3,000,000	2001
WHITLEY	08- 261.10	KY-92	SP	UTILITIES	$2,000,000	2003
WHITLEY	11- 1042.00	KY-628	BRX	UTILITIES	$25,000	2001
WHITLEY	11- 1042.00	KY-628	BRX	CONSTRUCTION	$300,000	2002
WHITLEY	11- 1048.00	KY-779	BRX	RIGHT OF WAY	$40,000	2002
WHITLEY	11- 1048.00	KY-779	BRX	UTILITIES	$60,000	2002
WHITLEY	11- 5001.00	US-25W	SP	CONSTRUCTION	$125,000	2002
WHITLEY	11- 5002.00	US-25W	SP	RIGHT OF WAY	$30,000	2001
WHITLEY	11- 5002.00	US-25W	SP	UTILITIES	$20,000	2001
WHITLEY	11- 5002.00	US-25W	SP	CONSTRUCTION	$1,500,000	2002
WHITLEY	11- 5007.00	US-25W	SP	DESIGN	$50,000	2004
WOLFE	10- 11.00	KY-15	SP	DESIGN	$2,000,000	2003
WOLFE	10- 126.10	KY-9009	SP	DESIGN	$600,000	2001
WOLFE	10- 126.10	KY-9009	NH	RIGHT OF WAY	$2,000,000	2003
WOLFE	10- 126.20	KY-9009	SP	DESIGN	$600,000	2003
WOODFORD	07- 347.00	-	SP	CONSTRUCTION	$7,948,000	2001
WOODFORD	07- 5005.00	KY-1964	SP	DESIGN	$80,000	2002
WOODFORD	07- 5005.00	KY-1964	SP	CONSTRUCTION	$750,000	2003
ZVARIOUS	99- 24.00	I-64	IM	CONSTRUCTION	$3,500,000	2002
ZVARIOUS	99- 41.00	I-24	IM	CONSTRUCTION	$2,500,000	2002
ZVARIOUS	99- 42.00	-	IM	CONSTRUCTION	$3,500,000	2003
ZVARIOUS	99- 86.05	-	SP	CONSTRUCTION	$35,000,000	2001
ZVARIOUS	99- 86.06	-	SP	CONSTRUCTION	$35,000,000	2002
ZVARIOUS	99- 86.07	-	SP	CONSTRUCTION	$35,000,000	2003
ZVARIOUS	99- 86.08	-	SP	CONSTRUCTION	$35,000,000	2004
ZVARIOUS	99- 121.00	-	NH	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 124.00	-	BRZ	CONSTRUCTION	$875,000	2001

ZVARIOUS	99- 195.03	-	TE	CONSTRUCTION	$12,700,000	2001
ZVARIOUS	99- 195.04	-	TE	CONSTRUCTION	$12,700,000	2002
ZVARIOUS	99- 195.05	-	TE	CONSTRUCTION	$12,700,000	2003
ZVARIOUS	99- 195.06	-	TE	CONSTRUCTION	$12,700,000	2004
ZVARIOUS	99- 206.10	-	SAF	CONSTRUCTION	$5,000,000	2001
ZVARIOUS	99- 206.20	-	SAF	CONSTRUCTION	$5,000,000	2002
ZVARIOUS	99- 207.00	-	NH	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 208.00	-	NH	CONSTRUCTION	$1,000,000	2004
ZVARIOUS	99- 209.00	-	SP	CONSTRUCTION	$5,000,000	2003
ZVARIOUS	99- 212.05	I-75	SP	CONSTRUCTION	$200,000	2001
ZVARIOUS	99- 212.06	I-75	SP	CONSTRUCTION	$200,000	2002
ZVARIOUS	99- 212.07	I-75	SP	CONSTRUCTION	$200,000	2003
ZVARIOUS	99- 212.08	I-75	SP	CONSTRUCTION	$200,000	2004
ZVARIOUS	99- 219.01	-	CM	CONSTRUCTION	$4,200,000	2001
ZVARIOUS	99- 219.02	-	CM	CONSTRUCTION	$6,200,000	2002
ZVARIOUS	99- 219.03	-	CM	CONSTRUCTION	$4,300,000	2003
ZVARIOUS	99- 219.04	-	CM	CONSTRUCTION	$4,400,000	2004
ZVARIOUS	99- 228.00	-	BRZ	CONSTRUCTION	$875,000	2002
ZVARIOUS	99- 233.00	-	BRO	CONSTRUCTION	$550,000	2001
ZVARIOUS	99- 234.00	-	BRO	CONSTRUCTION	$775,000	2002
ZVARIOUS	99- 235.40	-	SP	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 235.50	-	SP	CONSTRUCTION	$300,000	2002
ZVARIOUS	99- 235.60	-	SP	CONSTRUCTION	$300,000	2003
ZVARIOUS	99- 235.70	-	SP	CONSTRUCTION	$300,000	2004
ZVARIOUS	99- 242.00	-	STP	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 243.00	-	STP	CONSTRUCTION	$750,000	2002
ZVARIOUS	99- 243.01	-	STP	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 243.02	-	STP	CONSTRUCTION	$500,000	2004
ZVARIOUS	99- 246.00	-	NH	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 252.00	-	SP	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 253.00	-	SP	CONSTRUCTION	$1,500,000	2002
ZVARIOUS	99- 253.01	-	SP	CONSTRUCTION	$1,500,000	2003
ZVARIOUS	99- 253.02	-	SP	CONSTRUCTION	$1,500,000	2004
ZVARIOUS	99- 258.00	-	SP	CONSTRUCTION	$500,000	2001
ZVARIOUS	99- 259.01	-	SP	CONSTRUCTION	$500,000	2003
ZVARIOUS	99- 268.00	-	BRO	CONSTRUCTION	$1,500,000	2001
ZVARIOUS	99- 269.00	-	BRO	CONSTRUCTION	$1,500,000	2002
ZVARIOUS	99- 275.00	-	SAF	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 276.00	-	SAF	CONSTRUCTION	$2,000,000	2002
ZVARIOUS	99- 277.00	-	SP	CONSTRUCTION	$5,000,000	2001
ZVARIOUS	99- 278.00	-	SP	CONSTRUCTION	$9,000,000	2002
ZVARIOUS	99- 278.10	-	SP	CONSTRUCTION	$5,000,000	2004
ZVARIOUS	99- 282.00	-	SP	DESIGN	$500,000	2001
ZVARIOUS	99- 283.00	-	SP	DESIGN	$500,000	2002
ZVARIOUS	99- 287.00	-	SP	DESIGN	$300,000	2001
ZVARIOUS	99- 288.00	-	SP	DESIGN	$300,000	2002
ZVARIOUS	99- 290.00	-	STP	CONSTRUCTION	$300,000	2001

ZVARIOUS	99- 300.00	-	IM	CONSTRUCTION	$4,000,000	2001
ZVARIOUS	99- 301.00	-	IM	CONSTRUCTION	$18,000,000	2002
ZVARIOUS	99- 302.01	-	STP	DESIGN	$100,000	2001
ZVARIOUS	99- 302.01	-	STP	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 302.02	-	STP	DESIGN	$50,000	2003
ZVARIOUS	99- 302.02	-	STP	CONSTRUCTION	$500,000	2003
ZVARIOUS	99- 319.00	-	SP	CONSTRUCTION	$2,000,000	2001
ZVARIOUS	99- 320.00	-	SP	CONSTRUCTION	$2,000,000	2002
ZVARIOUS	99- 324.00	-	BRO	CONSTRUCTION	$550,000	2003
ZVARIOUS	99- 325.00	-	BRO	CONSTRUCTION	$500,000	2004
ZVARIOUS	99- 326.00	-	BRO	CONSTRUCTION	$1,500,000	2003
ZVARIOUS	99- 327.00	-	BRO	CONSTRUCTION	$1,500,000	2004
ZVARIOUS	99- 330.00	-	FH	CONSTRUCTION	$300,000	2001
ZVARIOUS	99- 331.00	-	FH	CONSTRUCTION	$300,000	2002
ZVARIOUS	99- 332.00	-	FH	CONSTRUCTION	$300,000	2003
ZVARIOUS	99- 333.00	-	FH	CONSTRUCTION	$300,000	2004
ZVARIOUS	99- 334.00	-	SP	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 335.00	-	SP	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 336.00	-	IM	CONSTRUCTION	$9,000,000	2003
ZVARIOUS	99- 337.00	-	IM	CONSTRUCTION	$15,000,000	2004
ZVARIOUS	99- 338.00	-	SP	DESIGN	$500,000	2003
ZVARIOUS	99- 339.00	-	SP	DESIGN	$500,000	2004
ZVARIOUS	99- 340.00	-	SP	DESIGN	$300,000	2003
ZVARIOUS	99- 341.00	-	SP	DESIGN	$300,000	2004
ZVARIOUS	99- 342.00	-	BRO	DESIGN	$1,000,000	2002
ZVARIOUS	99- 343.00	-	BRO	DESIGN	$1,200,000	2003
ZVARIOUS	99- 344.00	-	BRO	DESIGN	$2,000,000	2004
ZVARIOUS	99- 345.00	-	BRZ	CONSTRUCTION	$875,000	2003
ZVARIOUS	99- 346.00	-	BRZ	CONSTRUCTION	$875,000	2004
ZVARIOUS	99- 347.00	-	BRZ	DESIGN	$400,000	2002
ZVARIOUS	99- 348.00	-	BRZ	DESIGN	$500,000	2003
ZVARIOUS	99- 349.00	-	BRZ	DESIGN	$500,000	2004
ZVARIOUS	99- 350.00	-	NH	DESIGN	$2,000,000	2003
ZVARIOUS	99- 351.00	-	SAF	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 352.00	-	SAF	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 353.00	-	SAF	CONSTRUCTION	$7,000,000	2003
ZVARIOUS	99- 354.00	-	SAF	CONSTRUCTION	$7,000,000	2004
ZVARIOUS	99- 355.00	-	SAF	CONSTRUCTION	$2,000,000	2003
ZVARIOUS	99- 356.00	-	SAF	CONSTRUCTION	$2,000,000	2004
ZVARIOUS	99- 357.02	-	SP	DESIGN	$200,000	2001
ZVARIOUS	99- 357.03	-	SP	DESIGN	$200,000	2002
ZVARIOUS	99- 357.04	-	SP	DESIGN	$200,000	2003
ZVARIOUS	99- 357.05	-	SP	DESIGN	$200,000	2004
ZVARIOUS	99- 360.00	-	BRO	DESIGN	$1,500,000	2001
ZVARIOUS	99- 1051.00	-	SP	CONSTRUCTION	$450,000	2001
ZVARIOUS	99- 1052.00	-	SP	CONSTRUCTION	$450,000	2002
ZVARIOUS	99- 1060.00	-	BRX	CONSTRUCTION	$250,000	2001

ZVARIOUS	99- 1061.00	-	BRX	CONSTRUCTION	$250,000	2002
ZVARIOUS	99- 1062.00	-	BRX	CONSTRUCTION	$250,000	2003
ZVARIOUS	99- 1063.00	-	BRX	CONSTRUCTION	$250,000	2004
ZVARIOUS	99- 1064.00	-	SP	CONSTRUCTION	$450,000	2003
ZVARIOUS	99- 1065.00	-	SP	CONSTRUCTION	$450,000	2004
ZVARIOUS	99- 1066.00	-	BRX	DESIGN	$500,000	2003
ZVARIOUS	99- 1067.00	-	BRX	DESIGN	$1,000,000	2004
ZVARIOUS	99- 1068.00	-	BRX	CONSTRUCTION	$4,000,000	2004
ZVARIOUS	99- 1069.00	-	BRZ	CONSTRUCTION	$3,700,000	2004
ZVARIOUS	99- 5002.00	-	SP	CONSTRUCTION	$1,000,000	2001
ZVARIOUS	99- 5003.00	-	SP	CONSTRUCTION	$1,000,000	2002
ZVARIOUS	99- 5004.00	-	SP	CONSTRUCTION	$1,000,000	2003
ZVARIOUS	99- 5006.00	-	SP	CONSTRUCTION	$1,000,000	2004

The Committee Amendment No. 1 to the Committee Substitute attached thereto, to **HJR 92** is as follows:

On page 3, in between lines 21 and 22, insert the following:

"BOONE 06- 116.00 - SP UTILITIES $50,000 2001";

On page 3, line 22, at the end of line 22 delete fiscal year "2001" and insert in lieu thereof "2002"; and

On page 42, after line 26, insert a new section to read as follows:

"Section 2. If the Final Budget Memorandum enacted by the 1998 General Assembly contains a reference to the utility phase of the Boone County highway project item number 06-116.00 as being scheduled for fiscal year 2000, the Transportation Cabinet shall ignore the fiscal year noted in the budget memorandum and shall proceed with the utility phase for item number 06-116.00 in fiscal year 2001 as directed by Section 1 of this Act.".

The Committee Amendment No. 2 to the Committee Substitute to **HJR 92** is as follows:

On page 14, line 8, delete line 8 in its entirety; and

On page 14, line 9, delete the fiscal year "2003" and insert fiscal year "2001"; and

On page 14, line 10, delete the fiscal year "2004" and insert fiscal year "2001"; and

On page 14, line 12, delete the fiscal year "2002" and insert fiscal year "2001"."

HJR 115, A JOINT RESOLUTION directing the Transportation Cabinet to name the bridge on US 23 over Sookey's Creek in Pike County in honor of Hobert Potter and to erect appropriate signs.

WHEREAS, Hobert Potter is a lifelong resident of Pike County; and

WHEREAS, Hobert Potter is a business and civic leader in Pike County and has employed hundreds of individuals; and

WHEREAS, Hobert Potter is an active member of the Caney Creek Old Regular Baptist Church;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge on US 23 over Sookey's Creek in Pike County in honor of Hobert Potter.

Section 2. The Transportation Cabinet shall prepare appropriate highway signs to be erected at the site of the bridge.

Section 3. A copy of this Resolution shall be sent to the Secretary of the Transportation Cabinet and the District Highway Engineer in Pikeville, and Mr. Potter, Yeager, Kentucky.

HCR 119, A CONCURRENT RESOLUTION authorizing and directing a comprehensive study of highway signage in Kentucky.

WHEREAS, Congress has declared that outdoor advertising in areas adjacent to the interstate and Federal-aid primary systems should be controlled in order to protect the public investment in these highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEREAS, on June 12, 1961, Kentucky entered into an agreement pursuant to Section 131 of Title 23, United States

Code, as amended by Section 106 of the Federal-Aid Highway Act of 1959, commonly known as the "Bonus Act" that mandated certain restrictions be placed upon outdoor advertising in return for bonus payments of one-tenth of one percent of the cost of interstate construction; and

WHEREAS, Kentucky has upheld its June 12, 1961, agreement by placing certain restrictions upon outdoor advertising while Congress has failed to appropriate moneys duly owed to the Commonwealth of Kentucky; and

WHEREAS, the General Assembly of the Commonwealth of Kentucky recognizes that outdoor advertising is a legitimate commercial use of private property adjacent to the interstate and primary highway systems, that outdoor advertising is of vital importance to the state's seven billion dollar per year tourism industry, and that it is necessary to regulate and control outdoor advertising to promote highway safety, convenience, and enjoyment of highway travel, and to preserve the natural scenic beauty of highways and adjacent areas;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the General Assembly of the Commonwealth of Kentucky requests the Legislative Research Commission to direct staff to conduct a study to:

(1) Examine the historical evolution of federal legislation and regulations pertaining to the control of outdoor advertising adjacent to interstates and federal-aid highways;

(2) Examine the nature and scope of agreements entered into by the Commonwealth of Kentucky and the federal government as they pertain to the control of outdoor advertising adjacent to interstates and federal-aid highways;

(3) Determine if the agreements entered into by the Commonwealth of Kentucky and the federal government as they pertain to the control of outdoor advertising adjacent to interstates and federal-aid highways are, by comparison with other states, more restrictive;

(4) Examine current state regulations pertaining to outdoor advertising to determine if such regulations are more or less restrictive than what is required by federal legislation and regulations;

(5) Examine how current state regulations pertaining to highway signage affect Kentucky's tourism industry; and

(6) Examine official signage policies and regulations in Kentucky for the purpose of determining if these policies may be reasonably modified to better assist Kentucky's tourism industry.

Section 2. The study shall be completed by June 1, 1999, and shall be presented to the Interim Joint Committee on Economic Development and Tourism or its successor.

Section 3. Staff services to be utilized in completing this study are estimated to cost $15,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

SB 106, AN ACT relating to motorboat registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.050 is amended to read as follows:

(1) Except as otherwise provided in this chapter, before the owner or operator of each motorboat required to be registered and numbered by KRS 235.040 may operate it or permit its operation upon the waters of this state, the owner shall apply for title and registration to the county clerk of the county in which he resides, except, if the motorboat is to be operated principally in a county other than the county of the owner's residence the owner may apply for title and registration to the county clerk of the county in which the motorboat is to be principally operated. A motorboat last titled and registered in another state and purchased by a person for operation in this state shall be first titled and registered in this state by and in the name of the purchaser and not in the name of the seller. The application for title and registration shall be accompanied by:

(a) A bill of sale, if the application is for registration of a new motorboat; or

(b) The owner's registration receipt if the motorboat was last registered in this state; or

(c) A bill of sale and the previous registration receipt if last registered in another state; and

(d) The annual registration fee.

(2) Motorboats shall be registered annually. ***If an application for title and registration is filed with the county clerk prior to the annual registration date established by the Transportation Cabinet, the registration period shall include less than twelve (12) consecutive months and registration fees shall be computed at a rate of one-twelfth of the appropriate annual registration fee set out in KRS 235.080 per month of the remaining registration period.***

Section 2. KRS 186A.015 is amended to read as follows:

(1) ***Except as provided for in Section 1 of this Act,*** the titling and registration of motorboats as defined in KRS 235.010 shall be administered through the automated motor vehicle and trailer registration and titling system developed and implemented under the provisions of KRS 186A.010.

(2) The Transportation Cabinet, the Natural Resources and Environmental Protection Cabinet, the Revenue Cabinet, and all other agencies of state government affected by the system are hereby directed to cooperate in the orderly implementation of this system.

(3) The Transportation Cabinet, as far as practicable, and not inconsistent with the provisions of KRS Chapter 235, shall promulgate administrative regulations requiring the procedures for boat titling and registration to be consistent with motor vehicle titling and registration. These administrative regulations may pertain but shall not be limited to the following:

(a) Conditions and characteristics of certificate of title forms;
(b) Comparison and identification of hull identification numbers;
(c) Application for title or registration;
(d) Processing of title applications;
(e) Form of certificate of title;
(f) Notation of security interests or title;
(g) Title lien statements;
(h) Transfer of boat ownership;
(i) Duplicate certificate of title or registration; and
(j) Salvage titles.

SB 122, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Any person eligible for an accessible parking registration plate under KRS 186.042 who has been issued, or is eligible for, a special license plate shall make application to the cabinet by September 1 of the preceding registration year that the special plate be made to display the international symbol of access adopted by Rehabilitation International in 1969. The fee for a plate issued under this section shall be the same as for the special plate that the person is eligible for. All privileges granted by KRS 186.042 shall apply to license plates issued under this section.

SB 354, AN ACT relating to the motor vehicle commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.058 is amended to read as follows:

(1) The Motor Vehicle Commission is hereby created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by this section.

(2) The commission shall consist of twelve (12) members, eleven of whom shall be appointed by the Governor and the twelfth shall be the commissioner of the Department of Vehicle Regulation. The appointed members shall be:

(a) One (1) representative of an automobile manufacturer;
(b) One (1) representative of automobile wholesalers;
(c) One (1) representative of consumers who shall have no direct financial interest in the industry;
(d) Four (4) new motor vehicle dealers, but no more than two (2) shall represent the same automobile manufacturer as a franchise dealer;
(e) Four (4) used motor vehicle dealers.

(3) In addition to the requirements of membership on the commission in subsection (2), the following requirements shall apply to the composition of the commission:

(a) No more than seven (7) members shall be from the same political party; and
(b) From the eight (8) members specified in subsection (2)(d) and (e), seven (7) shall be from separate Supreme Court districts.

(4) Each member shall serve for a term of three (3) years. The staggered terms of membership dating from the gubernatorial appointments of July 15, 1982, shall remain in effect.

(5) (a) Members of the commission shall qualify by taking the constitutional oath of office which shall, with the certificate of appointment, be evidence of the authority of the member to act.

(b) Each member of the commission shall be entitled to two hundred dollars ($200) per day for each day actually engaged in the duties of the office, including time spent in necessary travel to and from meetings and otherwise, together with all travel and other necessary expenses incurred while performing official duties.

(6) The commission shall hold a regular annual meeting in September of each year and elect a chairman and vice chairman to serve for the ensuing year. The commission shall have regular meetings as the majority of the members specifies and special meetings at the request of any five (5) members. Reasonable notice of all meetings shall be given as commission administrative regulations prescribe.[~~ A majority of the commission, including the public member, shall constitute a quorum.~~]

(7) ***A member of the commission shall not participate in the deliberations of the commission and shall not vote on any matter before the commission in which the member has a financial interest or is an interested party. A member shall voluntarily disqualify himself or herself from deliberating or voting upon matters that affect the member, but shall not be required to disqualify from matters of general interest affecting the member, the member's employer, or a business unit in which the member has a financial interest as a member of a class of persons to be affected by an administrative regulation or order of the commission.***

(8) A majority of the commissioners, excluding any disqualified commissioner, shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission. A vacancy in the commission, whether due to disqualification or otherwise, shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

(9) The commission shall employ an executive director who shall be the chief administrative officer of the commission. He shall maintain all minutes of the commission proceedings and shall be custodian of the files and records of the commission. The executive director shall employ the staff authorized by the commission. The commission may, by interagency contract, utilize assistance of any state agency.

(10)[~~(8)~~] The commission shall deposit all moneys received by it from license fees paid under this law with the State Treasurer, who shall keep them in a separate fund to be known as the "Motor Vehicle Commission Fund." The commission may use this fund for salaries, wages, per diem, professional and consulting fees, grants, loans, contracts, travel expenses, equipment, office rent and expenses, and other necessary expenses incurred in carrying out its duties under this section as provided by legislative appropriation. At the close of each biennium, the unexpended balance remaining in the motor vehicle commission fund shall be transferred to the general fund.

(11)[~~(9)~~] The commission shall administer the provisions of this section, establish the qualifications of manufacturers and dealers, and insure that the distribution and sale of new motor vehicles is conducted as provided in this chapter, and under the commission's administrative regulations.

(12)[~~(10)~~] The commission may issue orders and make determinations necessary to carry out the provisions of KRS 190.010 to 190.080. The orders shall set forth the findings on which the order is based, and the reason for the particular action taken. All orders shall be signed by the chairman or vice chairman and attested by the executive director.

(13)[~~(11)~~] The commission may hold hearings that shall be conducted in accordance with KRS Chapter 13B. ***A member of the commission shall not participate in the deliberations of the commission and shall not vote on any matter if the member has been disqualified on any of the grounds under KRS 13B.040.***

(14)[~~(12)~~] The commission may cause legal proceedings to be instituted to enforce the provisions of this section and its administrative regulations, orders, and decisions. If it appears from any investigation of a possible violation of any other law or administrative regulation that a violation of the provisions of KRS 190.010 to 190.080 may have occurred, the matter shall be referred to the commission to determine whether proceedings under KRS 190.010 to 190.080 are appropriate. The commission may make contracts and execute instruments necessary or convenient to the exercise of its power or performance of its duties.

(15)[~~(13)~~] The availability of administrative procedures under this section shall not preclude the utilization of other remedies for violation of the provisions of this chapter which are available to the affected parties, including actions for injunctive relief.

Section 2. KRS 190.067 is amended to read as follows:

If the commission fails to perform ***or is unable to perform*** any of its official duties within the time prescribed in this chapter, the department may perform ***these***[~~the~~] duties [~~and certify its actions to the commission~~].

The Committee on Cities reported **HB 697, HB 719,** with Committee Substitute attached thereto, **HB 726, HB 863,** and **SB 269** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 697, AN ACT relating to local government code enforcement boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.8808 is amended to read as follows:

(1) The legislative body of a local government may, by ordinance, create a code enforcement board which shall have the power to issue remedial orders and impose civil fines as a method of enforcing a local government ordinance when a violation of the ordinance has been classified as a civil offense in accordance with this section.

(2) Subject to the limitations set forth in subsection (3) of this section, the legislative body of a local government may elect to enforce any ordinance of the local government***, including any zoning ordinance or regulation,*** by classifying a violation of the ordinance as a civil offense and establishing civil fines which may be imposed on any person who commits a violation of the ordinance. If a local government elects to enforce an ordinance as a civil offense, the ordinance, by its express terms, shall provide:

(a) That a violation of the ordinance is a civil offense;

(b) A maximum civil fine that may be imposed for each violation of the ordinance; and

(c) A specific civil fine of less than the maximum civil fine that will be imposed for each offense if the person who has committed the offense does not contest the citation.

(3) No legislative body of a local government shall classify the violation of an ordinance as a civil offense if the ***same conduct that is regulated by the ordinance***[~~violation~~] would also constitute ***a criminal offense or a moving motor vehicle offense***[~~an offense~~] under any provision of the Kentucky Revised Statutes[~~, including specifically, and without limitation, any provision of the Kentucky Penal Code and any moving motor vehicle offense~~].

Section 2. KRS 65.8811 is amended to read as follows:

(1) A code enforcement board shall consist of either ***three (3),*** five (5)***,*** or seven (7) members who shall be appointed by the executive authority of the local government, subject to the approval of the legislative body.

(2) (a) ***The initial appointments to a three (3) member code enforcement board shall be as follows:***

1. One (1) member appointed for a term of one (1) year;

2. One (1) member appointed for a term of two (2) years; and

3. One (1) member appointed for a term of three (3) years.

(b) The initial appointments to a five (5) member code enforcement board shall be as follows:

1. One (1) member appointed for a term of one (1) year;

2. Two (2) members appointed for a term of two (2) years each; and

3. Two (2) members appointed for a term of three (3) years each.

(c)[~~(b)~~]The initial appointments to a seven (7) member code enforcement board shall be as follows:

1. Two (2) members appointed for a term of one (1) year each;

2. Three (3) members appointed for a term of two (2) years each; and

3. Two (2) members appointed for a term of three (3) years each.

All subsequent appointments shall be made for a term of three (3) years.

(3) Each member of a code enforcement board shall have resided within the boundaries of the local government unit for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.

(4) A member may be reappointed, subject to approval of the legislative body.

(5) Any vacancy on a code enforcement board shall be filled within sixty (60) days by the executive authority, subject to the approval of the legislative body. If a vacancy is not filled by the executive authority within sixty (60) days, the remaining members of the code enforcement board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

(6) Any member of a code enforcement board may be removed by the appointing authority for misconduct, inefficiency, or willful neglect of duty. Any appointing authority who exercises the power to remove a member of a code enforcement board shall submit a written statement to the member and to the legislative body of the local government setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.

(7) All members of a code enforcement board shall, before entering upon their duties, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.

(8) The members of a code enforcement board may be reimbursed for expenses or compensated, or both, as specified in the ordinance creating the board.

(9) No member of a local government code enforcement board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the unit of local government ***that has created the code enforcement board***[~~of which he is a member~~].

(10) Each legislative body ***that elects to establish a***[~~of a local government~~] code enforcement board is encouraged to provide opportunities for education regarding pertinent topics for the members of the code enforcement ***board***[~~boards~~].

Section 3. KRS 65.8815 is amended to read as follows:

(1) The board shall, upon the initial appointment of its members, and annually thereafter, elect a chair from among its members, who shall be the presiding officer and a full voting member of the board. In the absence of the chair, the remaining members of the board shall select one (1) of their number to preside in place of the chair and exercise the powers of the chair.

(2) Meetings of the code enforcement board shall be held as specified in the ordinance creating the board.

(3) The presence of ***two (2) or more members shall constitute a quorum on a three (3) member board, the presence of*** three (3) or more members shall constitute a quorum on a five (5) member board, and the presence of four (4) or more members shall constitute a quorum on a seven (7) member board. The affirmative vote of a majority of the members constituting a quorum shall be necessary for any official action to be taken. Any member of a code enforcement board who has any direct or indirect financial or personal interest in any matter to be decided shall disclose the nature of the interest and shall disqualify himself from voting on the matter and shall not be counted for purposes of establishing a quorum.

(4) Minutes shall be kept for all proceedings of the code enforcement board and the vote of each member on any issue decided by the board shall be recorded in the minutes.

(5) All meetings and hearings of the code enforcement board shall be open to the public.

(6) The local government legislative body shall provide clerical and administrative personnel as reasonably required by its code enforcement board for the proper conduct of its duties.

Section 4. KRS 65.8828 is amended to read as follows:

(1) When a hearing before the code enforcement board has been requested, the code enforcement board, through its clerical and administrative staff, shall schedule a hearing.[~~ The hearing shall be conducted within fourteen (14) days of the date of the request, unless the person who requested the hearing requests or agrees to a continuance not to exceed fourteen (14) days.~~] Not less than seven (7) days before the date set for the hearing, the code enforcement board shall notify the person who requested the hearing of the date, time, and place of the hearing. The notice may be given by certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice. Any person requesting a hearing before the code enforcement board who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. In this event, the board shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

(2) Each case before a code enforcement board ***may***[~~shall~~] be presented by an attorney selected by the local government or by a member of the administrative staff of the local government. ***An***[~~The~~] attorney ***may***[~~shall~~] either be counsel to the code enforcement board or ***may***[~~shall~~] represent the local government by presenting cases before the code enforcement board, but in no case shall ***an***[~~the~~] attorney serve in both capacities.

(3) All testimony shall be under oath and shall be recorded. The code enforcement board shall take testimony from the code enforcement officer, the alleged offender, and any witnesses to the alleged violation offered by the code enforcement officer or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(4) At the hearing, the code enforcement board shall determine, based on the evidence presented, whether a violation was committed. When the board determines that no violation was committed, an order dismissing the citation shall be entered. When the board determines that a violation has been committed, the board shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to the maximum authorized by ordinance, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a fine, or both, as authorized by ordinance.

(5) Every final order of a code enforcement board shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order of the board is issued, the order shall be delivered to that person by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order.

Section 5. KRS 65.8831 is amended to read as follows:

(1) An appeal from any final order issued by a code enforcement board may be made to the District Court of the county in which the local government is located within thirty (30) days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the board's order in the same manner as any civil action under the Rules of Civil Procedure. The *appeal shall be limited to a review of the record created before the code enforcement board*[~~action shall be tried de novo and the burden shall be upon the local government to establish that a violation has occurred. If the court finds that a violation occurred, judgment shall be entered ordering the offender to pay to the local government all fines assessed for the violation and all charges and fees incurred by the local government as of the date of the judgment in connection with the enforcement of the ordinance. If the court finds a violation did not occur, the complaint shall be dismissed and the plaintiff shall be authorized to recover his costs~~].

(2) A judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

(3) If no appeal from a final order of a code enforcement board is filed within the time period set forth in this section, the code enforcement board's order shall be deemed final for all purposes.

HB 719, AN ACT relating to health insurance coverage for retired policemen and firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 79 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees of any policemen's and firefighters' retirement fund of an urban-county shall arrange by appropriate contract to provide a broad program of hospital and medical insurance coverage for the benefit of members retired for service or disability. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. For recipients eligible for Medicare coverage, the board shall provide Medicare supplement hospital and medical insurance coverage that, combined with the Medicare coverage, affords the recipient coverage comparable to that afforded recipients not eligible for Medicare coverage.

(2) Members shall qualify for hospital and medical benefits as described in subsection (1) of this section in the same manner necessary to qualify for a retirement annuity under KRS 67A.410, 67A.420, 67A.460, or 67A.470.

(3) The coverage provided shall be as set forth in the contracts and regulations of the board of trustees. The board of trustees may change the levels of coverage to meet the changing needs of the annuitants.

(4) The board of trustees is empowered to promulgate rules and regulations to assure efficient operation of the hospital and medical insurance program.

(5) The premium required to provide hospital and medical benefits under this section shall be paid in full by the urban-county government.

(6) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for Social Security disability benefits.

(7) Premiums paid for hospital and medical insurance under this section shall be exempt from any premium tax that might otherwise be required under KRS Chapter 136. The payment of premiums by the urban-county government shall not constitute taxable income to the recipient.

The Committee Substitute to **HB 719** is as follows:

AN ACT relating to health insurance coverage for retired policemen and firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 79 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees of any policemen's and firefighters' retirement fund of an urban-county shall arrange by appropriate contract to provide a broad program of hospital and medical insurance coverage for the benefit of members retired for service or disability. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. For recipients eligible for Medicare coverage, the board shall provide Medicare supplement hospital and medical insurance coverage that, combined with the Medicare coverage, affords the recipient coverage comparable to that afforded recipients not eligible for Medicare coverage.

(2) ***Members shall qualify for hospital and medical benefits as described in subsection (1) of this section in the same manner necessary to qualify for a retirement annuity under KRS 67A.410, 67A.420, 67A.460, or 67A.470.***

(3) ***The coverage provided shall be as set forth in the contracts and regulations of the board of trustees. The board of trustees may change the levels of coverage to meet the changing needs of the annuitants.***

(4) ***The board of trustees is empowered to promulgate rules and regulations to assure efficient operation of the hospital and medical insurance program.***

(5) ***The premium required to provide hospital and medical benefits under this section shall be paid in full by the urban-county government.***

(6) ***Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for Social Security disability benefits.***

HB 726, AN ACT relating to civil service commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 90.310 is amended to read as follows:

(1) Any city of the second or third class may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission which shall hold examinations as to the qualifications of applicants for municipal employment within the several departments of the city that are designated by ordinance. In cities of the second class in which a civil service ordinance was adopted before June 19, 1946, the city shall, by ordinance, create civil service classifications for all employees consistent with the actual work to be performed by such employees; in other cities of the second class, and in cities of the third class, the city may, by ordinance, classify employees and designate the class of employees it desires to include.

(2) The mayor, subject to the approval of the city legislative body, shall appoint at least three (3) but no more than ***seven (7)***[~~five (5)~~] persons who shall constitute the civil service commission of that city. Each appointee shall be at least thirty (30) years of age and not related by either blood or marriage to the mayor or any member of the city legislative body. The appointees shall originally be appointed one (1) for a term of three (3) years, one (1) for a term of two (2) years and all remaining appointments shall be for a term of one (1) year, and the successors to these appointees shall be appointed in like manner, each for a period of three (3) years and until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. At the time of any appointment, if the mayor elects to appoint only three (3) commissioners, not more than two (2) commissioners shall be adherents of the same political party. If the mayor elects to appoint more than three (3) commissioners***, but no more than five (5) commissioners,*** not more than three (3) commissioners shall be adherents of the same political party. ***If the mayor elects to appoint more than five (5) commissioners, not more than four (4) commissioners shall be adherents of the same political party.*** The appointee originally appointed for the term of three (3) years shall be secretary of the commission. Each appointee shall qualify by taking an oath of office as required by law. The salaries of the members of the commission may be fixed by the city legislative body.

(3) If the appointing authority of any city fails to appoint a civil service commission within thirty (30) days after he has the power to so appoint or after a vacancy exists, the mayor pro tem shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.

(4) The civil service commission shall make and enforce rules, not inconsistent with the provisions of KRS 90.310 to 90.410 or the ordinances of the city, for examinations and registrations therefor.

HB 863, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81A.420 is amended to read as follows:

(1) When a city desires to annex unincorporated territory, the legislative body of the city proposing to annex shall enact an ordinance stating the intention of the city to annex. The ordinance shall accurately define the boundary of the unincorporated territory proposed to be annexed, and declare it desirable to annex the unincorporated territory.

(2) ***Except as provided in KRS 81A.412,***[~~If~~] following the publication of the annexation ordinance pursuant to subsection (1) of this section [~~and within sixty (60) days thereof, or if in any annexation proceeding where the annexing city has not adopted a final annexation ordinance, within sixty (60) days of February 12, 1988, fifty percent (50%) of the resident voters or owners of real property within the limits of the territory proposed to be annexed petition the mayor in~~

~~opposition to the proposal,]~~ an election shall be held at the next regular election ***as follows***~~[if the petition is presented to the county clerk and certified by the county clerk as sufficient not later than the second Tuesday in August preceding the regular election]~~:

(a) The mayor of the city shall deliver a certified copy of the ordinance to the county clerk of the county in which the territory proposed to be annexed is located, who shall have prepared to be placed before the voters in each precinct embraced in whole or in part within the territory proposed to be annexed the question: "Are you in favor of being annexed to the City of ....?" If only a part of any precinct is embraced within the territory proposed to be annexed only persons who reside within the territory proposed to be annexed shall be permitted to vote. The clerk shall cause the sheriff or sheriffs to deliver to the election officers in each precinct in the appropriate counties copies of the ordinance proposing to annex;

(b) If ***a majority***~~[less than fifty-five percent (55%)]~~ of those persons voting ***favor***~~[oppose]~~ annexation, the unincorporated territory shall become a part of the city; ***or***~~[and]~~

(c) If ***a majority***~~[fifty-five percent (55%) or more]~~ of those persons voting oppose annexation, the ordinance proposing annexation shall become ineffectual for any purpose.

(3) ~~[In not less than sixty (60) days after the enactment of the ordinance, if no petition has been received by the mayor as set out herein, or]~~Within sixty (60) days of the certification of election results in which ***a majority***~~[less than fifty-five percent (55%)]~~ of those persons voting ***favored***~~[opposed]~~ annexation, the legislative body may enact an ordinance annexing to the city the territory described in the ordinance. If the city has elected to establish the zoning for the new territory prior to the completion of the annexation pursuant to KRS 100.209, the ordinance shall include a map showing the zoning. Upon the enactment of this ordinance, the territory shall become part of the city for all purposes.

Section 2. KRS 81A.412 is amended to read as follows:

A city may annex any area which meets the requirements of KRS 81A.410, if each of the owners of record of the land to be annexed gives prior consent in writing to the annexation. In this event, the city shall not be required to enact the notification ordinance required by KRS 81A.420(1) or to comply with the notice requirements of KRS 81A.425, and it shall not be required to ***conduct an election***~~[wait the sixty (60) day period]~~ provided for in KRS 81A.420(2) prior to enacting a final ordinance annexing the area. When a city has obtained the prior written consent of each owner of record of the land to be annexed, the city may enact a single ordinance finally annexing the land described in the ordinance. If the city has elected to establish the zoning for the new territory pursuant to KRS 100.209 prior to the completion of annexation under this section, the ordinance annexing the territory shall include a map showing the zoning. Upon the enactment of this ordinance, the territory shall become a part of the city.

Section 3. KRS 64.060 is amended to read as follows:

(1) Sheriffs, constables, coroners, ~~[marshals,]~~ and policemen shall be paid out of the State Treasury for the following services the following fees:

(a)	Apprehending a person on charge of felony, or a fugitive from justice charged with a felony in this state	$10.00
(b)	Executing a process of contempt in a criminal case when the court excuses the contempt	1.60
(c)	Executing a summons upon a witness in behalf of the Commonwealth in a felony case	3.00
(d)	Summoning a jury, on order of a court, in a county other than that in which the action is pending, a reasonable allowance to be fixed by the court.	
(e)	Summoning and attending a jury in a case of felony	2.50

(2) No claim for services incidental to examining courts shall be allowed to any sheriff, deputy sheriff, constable, ~~[marshal,]~~ policeman, or other officer authorized to execute process in felony cases until the grand jury has returned an indictment for a felony.

Section 4. The following KRS section is repealed:

70.330 Vacancy in constable's office in district containing city of sixth class -- Marshal may act as.

SB 269, AN ACT relating to municipal utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.530 is amended to read as follows:

(1) Any city acquiring or constructing an electric light, heat, and power plant under the provisions of KRS 96.520 shall, by ordinance, appoint a city utility commission consisting of three (3) commissioners to operate, manage, and control the

plant, except that a city of the second class shall appoint five (5) commissioners. The utility commission shall have absolute control of the plant in every respect, including its operation and fiscal management and the regulation of rates, except that in fixing rates the commission shall be governed by the provisions of KRS 96.430, as it is made applicable to ***those***[~~such~~] plants by KRS 96.520, and by any ordinance enacted under that section, except that in fixing rates the commission in a city of the second or third class shall be governed by the provisions of KRS 96.535 and any ordinance enacted ***according to this section***[~~thereunder~~]. The utility commission, when so appointed, shall be a public body politic and corporate, with perpetual succession; and the body may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The utility commission shall provide rules for the management of the plant, and it shall fix the number, qualifications, pay, and terms of employment of all employees needed to operate the plant. In cities of the second or third class providing civil service coverage for city employees, the utility commission appointed under this section may provide civil service coverage for all of its employees and it shall exercise the powers and functions with respect to ***their***[~~such~~] employees which are vested in the city legislative body with respect to the city employees by KRS 90.380. Employees who have been in the employment of the utility commission for one (1) year immediately preceding the adoption of an order by the utility commission placing all of its employees under civil service coverage shall not be required to stand a civil service examination and they shall be eligible for all the benefits provided by civil service coverage. Out of the revenue of the plant, it shall pay operating expenses, repairs, and necessary additions and provide sufficient reserve fund against any emergency that may arise. The commission shall from time to time pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.430 and 96.440, as they are made applicable to ***the***[~~such~~] plants by KRS 96.520, except that the commission in a city of the second or third class shall pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.535 and any ordinance adopted ***according to this section***[~~thereunder~~]. Notwithstanding the foregoing provisions, the utility commission, for the purpose stated in subsection (1) of KRS 96.520, may enter into an agreement for the operation of any of its plants or other facilities.

(2) Except as provided in KRS 61.070, no person shall be appointed a member of the commission who has, within the last two (2) years before his appointment, held any city, county, state***,*** or federal office, or been a member of any committee of any political party, or who is related within the third degree to the mayor***,*** or a member of a city legislative body. The commission shall not appoint to any subordinate office that it may create any person who is related to any commissioner, to the mayor or to any member of the city legislative body. No officer or employee of the city, whether holding a paid or unpaid office, shall be eligible to be appointed as a member of the commission or to be employed by the commission in any capacity. The members of the commission shall be citizens, taxpayers, and legal voters of the city and shall not at the time of appointment be indebted to the city or be surety on the official bond of any officer of the city. If at any time during his term of office any member of the commission becomes a candidate for or is elected or appointed to any public office, he shall automatically vacate his membership on the commission and another person shall be appointed in his place.

(3) The city shall pay the cost of securing bonds for the commissioners from a surety company, and each commissioner shall execute bond to be approved by the city legislative body.

(4) The city legislative body shall fix the salary to be paid each member of the commission at a sum not to exceed[~~:~~

~~(a)~~] two thousand four hundred dollars ($2,400) per annum[~~, if the city does not own or operate electric generation facilities; or~~

~~(b) Two thousand four hundred dollars ($2,400) per annum, if the city owns or operates electric generation facilities~~]. ***The Department of Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the Consumer Price Index of the preceding year by using 1998 as the base year, and the salary of the commissioners may be adjusted at a rate no greater than that stipulated by the department.***

(5) The first commissioners appointed under this section shall be appointed one (1) for the term of one (1) year, one (1) for the term of two (2) years and one (1) for the term of three (3) years. Upon the expiration of the first terms, successors shall be appointed for a term of three (3) years. On a commission with five (5) members, not more than two (2) members shall hold concurrent terms of office.

(6) All commission members appointed subsequent to the initial members shall be appointed by the mayor or chief executive of the municipality, with the approval of the governing body of the municipality.

Section 2. KRS 96.520 is amended to read as follows:

(1) Any city of the second, third, fourth, fifth***,*** or sixth class may purchase, establish, erect, maintain***,*** and operate electric light, heat***,*** and power plants, with extensions and necessary appurtenances[~~ thereto~~], within or without the corporate limits of the city, for the purpose of supplying the city and its inhabitants with electric light, heat***,*** [~~and ~~]power, ***and telecommunications*** and, for ***this***[~~such~~] purpose, may enter into and fulfill the terms of an interconnection agreement with any ***electric or combination electric or gas*** utility whose rates and service are regulated by the Public Service Commission of Kentucky (or, if not so regulated, operating and having customers only outside of Kentucky)***, or an***

affiliate entirely owned by or under complete common ownership with an electric or combination electric and gas utility whose rates and service are regulated by the Public Service Commission of Kentucky, and may establish, erect, maintain***,*** and operate[~~ such~~] plants, individually or jointly with any ***of these utilities or utility affiliate***[~~such utility~~]. In the case of any joint action***, a***[~~ such~~] city and utility ***or utility affiliate*** may provide by contract for their respective responsibilities, for operation and maintenance and for the allocation of expenses, revenues***,*** and power. If in the accomplishment of ***this***[~~such~~] purpose ***a***[~~such~~] city at any time has capacity or energy surplus to the immediate needs of the city and its inhabitants, ***the***[~~such~~] surplus, if not disposed of for consumption outside this state, may be disposed of only to ***an electric or combination electric and gas***[~~a~~] utility whose rates and service are regulated by the Public Service Commission of Kentucky***, or to an affiliate entirely owned by or under complete common ownership with such a utility***.

(2) The city shall proceed in the same manner and be governed by the same conditions as are set forth in KRS 96.360 to 96.510 for the acquisition and operation of a water system, with the following exceptions:

(a) A petition calling for an election on the proposition of purchasing an existing plant shall be signed by at least two hundred (200) qualified voters of the city, rather than by twenty-five percent (25%) of the qualified voters of the city who voted at the last preceding regular election.

(b) Notwithstanding any other[~~ acts or~~] laws[~~ of other import wherever the same may be found in the Kentucky Revised Statutes~~], bonds may be issued bearing interest at ***a***[~~such~~] rate or rates and may be sold on a basis to yield interest at ***a***[~~such~~] rate or rates as may be determined upon the sale ***of the bonds***[~~thereof~~].

(c) Bonds of an issue, or bonds of two (2) or more issues consolidated for the purposes of sale, which equal or exceed $10,000,000 in the aggregate principal amount may be sold at public or private sale without compliance with KRS 424.360.

(3) This section constitutes a method for the acquisition of an electric light, heat***,*** and power plant by any city of the second, third, fourth, fifth***,*** or sixth class in addition or as an alternate to any other method authorized by statute, provided that ***the***[~~such~~] city was operating an electric plant on June 1, 1942, and has not elected to operate under KRS 96.550 to 96.900. No proceedings shall be required for the acquisition of any electric light, heat***,*** or power plant or the issuance of bonds under this section except the proceedings required by KRS 96.360 to 96.510.

The Committee on Appropriations and Revenue reported **HB 66**, with Committee Substitute attached thereto, **HB 385, HB 462, HB 547, HB 696, HB 751, HB 767**, and **SB 19** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 66, AN ACT relating to sales tax on horses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.531 is amended to read as follows:

Notwithstanding all other provisions of this chapter, the taxes imposed by this chapter shall apply to the horse industry as follows:

(1) The taxes imposed under the provisions of this chapter shall apply to the following transactions:

(a) Fees paid for breeding a stallion to a mare in this state;

(b) Sales of horses unless exempted under the provisions of subsections (2)(a)***,***[~~ or~~] (2)(c)***, or (2)(d)*** of this section;

(c) Claiming price of any horse claimed at any race meeting within this state.

(2) The taxes imposed under the provisions of this chapter shall not apply to the sale or use of:

(a) Horses, or interests or shares in horses, provided the purchase or use is made for breeding purposes only;

(b) Stallion services, including the trading but not the sale thereof, providing the use or trading is made by the owner of the stallion or the owner of an interest or share in the stallion;

(c) Horses less than two (2) years of age at the time of sale, provided the sale is made to a nonresident of Kentucky, and the horse is transported out of the state, either immediately following the sale or immediately following training within the state if the horse is kept temporarily within the state for training purposes following the sale***;***

(d) Horses sold at auction for three thousand dollars ($3,000) or less.

(3) The taxes imposed by this chapter shall not apply to receipts for boarding and training of horses within this state, nor to the temporary use of horses within this state for purposes of racing, exhibiting, or performing.

The Committee Substitute to **HB 66** is as follows:

AN ACT relating to sales tax on horses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.531 is amended to read as follows:

Notwithstanding all other provisions of this chapter, the taxes imposed by this chapter shall apply to the horse industry as follows:

(1) The taxes imposed under the provisions of this chapter shall apply to the following transactions:

(a) Fees paid for breeding a stallion to a mare in this state;

(b) Sales of horses unless exempted under the provisions of subsections (2)(a)***,***~~[or]~~ (2)(c)***, or (2)(d)*** of this section;

(c) Claiming price of any horse claimed at any race meeting within this state.

(2) The taxes imposed under the provisions of this chapter shall not apply to the sale or use of:

(a) Horses, or interests or shares in horses, provided the purchase or use is made for breeding purposes only;

(b) Stallion services, including the trading but not the sale thereof, providing the use or trading is made by the owner of the stallion or the owner of an interest or share in the stallion;

(c) Horses less than two (2) years of age at the time of sale, provided the sale is made to a nonresident of Kentucky, and the horse is transported out of the state, either immediately following the sale or immediately following training within the state if the horse is kept temporarily within the state for training purposes following the sale***;***

(d) Horses sold for three thousand dollars ($3,000) or less and which are used for recreational purposes.

(3) The taxes imposed by this chapter shall not apply to receipts for boarding and training of horses within this state, nor to the temporary use of horses within this state for purposes of racing, exhibiting, or performing.

HB 385, AN ACT relating to property tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.820 is amended to read as follows:

(1) The cabinet shall value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances. Unmined coal, oil, and gas reserves and other mineral or energy resources shall~~[in all cases]~~ be valued and assessed by the Revenue Cabinet as a distinct interest in real property, separate and apart from the surface real estate ***except as provided in Section 2 of this Act***.

(2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, file a return with the cabinet in a form as the cabinet may prescribe. Other individuals or corporations having knowledge of the property defined in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the cabinet to file a return.

(3) Any property subject to assessment by the cabinet under subsection (1) of this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be deemed omitted property.

(4) After the valuation of unmined minerals or other energy sources has been finally fixed by the cabinet, the cabinet shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by him to the proper collecting officer of the county, city, or taxing district for collection.

(5) The notification, protest, and appeal of assessments under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 131.

(6) The collection of tax bills generated from the assessments made under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 134.

SECTION 2. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) If the requirements of subsection (2) of this section are met, the cabinet shall not assess unmined minerals and other energy resources as a distinct interest in real property, separate and apart from the surface real estate. The property valuation administrator shall assess the surface at its agricultural or horticultural value and any unmined minerals and other energy resources shall be considered as a value in excess of the agricultural or horticultural use as provided in KRS 132.450(2)(d).

(2) Unmined minerals and other energy resources within or beneath parcels of real estate classified as agricultural or horticultural, as defined in Section 3 of this Act, that are not being extracted shall be included as a part of the surface real estate and shall be subject to assessment by the property valuation administrator if the surface real estate and the unmined mineral or other energy resource are owned by the same taxpayer.

(3) Notwithstanding the provisions of this section to the contrary, any leasehold interest in unmined minerals and other

energy resources shall be assessed by the cabinet as a distinct interest in real property separate and apart from the surface real property interest, against the owner of the leasehold interest.

Section 3. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the Revenue Cabinet.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government. ***Agricultural land shall include only the surface real estate if the mineral or energy resource rights have been severed. Agricultural***

land shall include both the surface real estate and the mineral or energy resources if the mineral or energy resource rights have not been severed and if the value of the mineral or energy resources is less than the value of the surface for agricultural use. Agricultural land shall include only the surface real estate if the mineral or energy resource rights have not been severed and if the value of the mineral or energy resources is greater than the value of the surface for agricultural use. However, in no case shall agricultural land include leasehold interests in mineral and energy resources.

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, ***excluding the value of any unmined minerals and other energy resources if the conditions established by Section 2 of this Act are met, and*** excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

- (a) Relative percentages of tillable land, pasture land, and woodland;
- (b) Degree of productivity of the soil;
- (c) Risk of flooding;
- (d) Improvements to and on the land that relate to the production of income;
- (e) Row crop capability including allotted crops other than tobacco;
- (f) Accessibility to all-weather roads and markets; and
- (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

- (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.
- (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.
- (c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.
- (d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

HB 462, AN ACT relating to the Court of Justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 26A.090 is amended to read as follows:

As used in KRS 26A.090 to 26A.115, unless the context otherwise requires:

(1) "Operating costs allowance" means compensation equivalent to the annual expenses borne by the unit of government for utilities, janitorial service, rent, insurance, and necessary maintenance, repair, and upkeep of the court facility which do not increase the permanent value or expected life of the court facility, but keeps it in efficient operating condition, and, at the election of the Administrative Office of the Courts, capital costs of interior or mechanical renovations for the benefit of the court.

(2) "Use allowance" means compensation equal to four percent (4%) annually of the total original capital costs and the cost of capitalized renovation of the court facility, except that if indebtedness has been incurred in respect to such capital costs at a constant annual interest rate equal to or greater than seven percent (7%), compensation shall be at a rate of eight percent (8%) annually of that portion of the capital costs for which the rate applies. Except that in the case of court facilities renovated or constructed after July 1, 1994, "use allowance" means the court's proportional share of the annual principal and interest cost in connection with the renovation or construction, but not to exceed eight percent (8%) annually of capital costs, or, if there is no debt, four percent (4%) annually of capital costs.

(3) "Capital costs" means the costs borne by the unit of government, excluding grants, conditioned by the grantor agency specifically for court facility construction or renovation, for acquisition of property and for construction and capitalized renovation including interest accruing during construction or renovation, but no other interest of each court facility. If capital costs are not documented, reasonable estimates provided by qualified appraisers will suffice. ***After the effective date of this Act, capital costs, for the purposes of computing the maximum use allowance, shall not exceed the project scope as authorized by the General Assembly in the judicial branch budget or as increased and approved under Section 4 of this Act.***

(4) "Capitalized renovation" means all remodeling involving the structural or mechanical systems, except for remodeling that involves substantial demolition of the original structure. Remodeling involving substantial demolition of the original structure shall constitute construction resulting in a new court facility.

(5) "Unit of government" means a county, city, urban-county government, special district, or corporate entity created for the purpose of constructing or holding title to a court facility.

(6) "Court facility" means the land and buildings owned or operated by a unit of government in which space for the court of justice is provided. Judges' benches, jury and witness boxes, and fixed seating shall be considered as permanent building fixtures.

(7) "Court facilities standards committee" means a committee consisting of the Chief Justice or his designee; one (1) judge each of the Court of Appeals, the Circuit Court, and the District Court appointed by the Supreme Court; the president of the Circuit Clerks' Association; the ***chairmen***[~~chairman~~] of the ***House and Senate*** Judiciary[~~ Civil~~] Committees of the General Assembly; the secretary of the Finance and Administration Cabinet; and a county judge/executive appointed by the Governor. Each appointed member shall serve for a term of four (4) years from the date of his appointment or until he vacates the office in respect to which he was appointed, whichever is earlier.

Section 2. KRS 26A.100 is amended to read as follows:

(1) The Circuit and the District Court shall be held in the county courthouse of each county unless otherwise ordered by the Supreme Court in which case it may be held at any other location made available by the county and owned, leased, or controlled by the county. Circuit or District Court may also be held in such other locations in the county as may be convenient and approved by the Supreme Court.

(2) Every county or urban-county government shall provide such reasonably available space which would not disrupt the operation of county government as necessary in the county courthouse, or in other county facilities as permitted in subsection (1) of this section, for:

(a) A courtroom or courtrooms for the Circuit and the District Court;

(b) Chambers for the Circuit Judge and District Judge or Judges;

(c) Office space for the Circuit and District Court staffs;

(d) Office and storage space for the circuit clerk's operations;

(e) Jury facilities for the Circuit and the District Court;

(f) Office space for other officers of the Court of Justice including pretrial release officers, court reporters, court administrators, judges' secretaries, friends of the court and commissioners; and

(g) Such other facilities necessary for the operation of the Circuit and the District Court as may be agreed upon by the county or urban-county government and the Administrative Office of the Courts.

(3) If all necessary facilities for the holding of Circuit or District Court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in county facilities, every city shall, upon request of the Administrative Office of the Courts, provide such reasonably available space which would not disrupt the operation of city government as necessary in the city's facilities for the operations of Circuit or District Court, or both. The city shall be responsible for providing space for the operations listed in subsection (2) of this section.

(4) If all necessary facilities for the holding of Circuit or District Court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in county or city facilities, every agency of state government, special district, and independent agency of local government, other than a city, may, upon the request of the Administrative Office of the Courts, provide such space as necessary in facilities owned, leased, or controlled by such organization for the operations of Circuit or District Court, or both. The agency may provide space for the operations listed in subsection (2) of this section.

(5) If all necessary facilities for the holding of Circuit or District Court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in public facilities, private facilities may be rented, leased, purchased, or otherwise acquired, by the Administrative Office of the Courts pursuant to permission granted by the Chief Justice for such acquisition and in compliance with the provisions of KRS Chapters 45 and 56.

(6) All court facilities projects authorized after the effective date of this Act shall comply with the standards of the National Center for State Courts.

SECTION 3. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) There is created a court facility use allowance contingency fund. The fund shall consist of moneys appropriated to it in the judicial branch budget by the General Assembly. All investment earnings shall be credited to the fund.

(2) The Court of Justice may use funds in the court facility use allowance contingency fund to cover use allowance cost overruns on court projects authorized in a judicial branch budget enacted by the General Assembly in accordance with Section 4 of this Act.

(3) Funds in the court facility use allowance contingency fund shall not lapse but shall be carried forward to the next fiscal year or biennium.

SECTION 4. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) The Court of Justice may agree to an increase in the budgeted scope of an authorized court project if:

  (a) The appropriate unit of government first submits a proposal for the increase to the Court Facilities Standards Committee;

  (b) The annual use allowance, adjusted for the proposed increase in scope, would not exceed the maximum annual use allowance for that project included in the multiyear use allowance schedule set out in a judicial branch budget bill or memorandum by more than fifteen percent (15%);

  (c) For projects within a pool:

    1. The increase in scope would not increase the annual use allowance of an individual project, as established in a judicial branch budget bill or memorandum, or by the Court Facilities Standards Committee under subsection (2) of Section 5 of this Act, by more than fifteen percent (15%); and

    2. The annual use allowance for the pool, adjusted for the proposed increase in scope, would not exceed the maximum annual use allowance for that pool included in the multiyear use allowance schedule set out in the judicial branch budget bill or memorandum by more than fifteen percent (15%); and

  (d) The Court Facilities Standards Committee approves the increase.

(2) Before the Court of Justice gives final approval to increase the scope of an authorized project or project pool listed in a judicial branch bill which will result in an increased use allowance or will require allocation of funds from the court facility use allowance contingency fund, the director of the Administrative Office of the Courts shall submit the proposal to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The proposal shall include information on:

  (a) The multiyear use allowance included in the judicial branch budget bill or memorandum and proposed changes;

  (b) The amount of contingency funds proposed to be used;

  (c) The reasons and necessity for the proposed increase;

  (d) Whether the proposed use of funds conforms with the requirements of the law; and

  (e) Any other information the committee requests.

(3) Within thirty (30) days after receiving a proposal to increase the use allowance or to use funds in the court facility use allowance contingency fund, the Capital Projects and Bond Oversight Committee shall either approve or

disapprove of the proposal and shall then promptly notify the director of the Administrative Office of the Courts of its decision.

(4) If the Capital Projects and Bond Oversight Committee disapproves the proposal, the director of the Administrative Office of the Courts shall take one of the following actions:

(a) Revise the proposal to comply with the committee's objections;

(b) Cancel and take no further action on the proposal; or

(c) Implement the proposal regardless of the committee's objection.

The director of the Administrative Office of the Courts shall notify the committee of its decision in writing within thirty (30) days of receiving the committee's notice of disapproval.

(5) The Administrative Office of the Courts shall report to the Capital Projects and Bond Oversight Committee within thirty (30) days of any action taken by the Court of Justice to approve a scope increase of a project within a pool which increases the use allowance.

(6) The Capital Projects and Bond Oversight Committee shall maintain records of proposals, findings, decisions, and actions taken under this section. When appropriate, the committee shall transmit this information to other legislative committees or to the General Assembly.

SECTION 5. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) The Administrative Office of the Courts shall provide to the Capital Projects and Bond Oversight Committee, at the committee's January, April, July, and October regular meetings, a status report on the progress of all incomplete court facilities projects. For each project, the status report shall include:

(a) The project title;

(b) The county in which the project is located;

(c) The scope and use allowance authorized for the project in the judicial branch budget and budget memorandum or as subsequently increased under Section 4 of this Act;

(d) The current status of the project;

(e) Explanation of any delay or major change in the project; and

(f) Any other information that the committee requests.

(2) For projects within a project pool, where individual project scopes and multiyear use allowances are not established in a judicial branch budget bill or memorandum, the Court Facilities Standards Committee shall establish the project scopes and multiyear use allowances and shall include them in the first quarterly status report, required in subsection (1) of this section, due after the effective date of the judicial branch budget bill authorizing the project pool.

(3) On August 1 of each year, the Administrative Office of the Courts shall prepare a financial report on the court facility use allowance contingency fund for the fiscal year ending on June 30 of that year. The report shall include, with explanation, allotments, expenditures, encumbrances, and the available balance.

HB 547, AN ACT relating to property tax administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.320 is amended to read as follows:

(1) Any person who has failed to list for taxation his intangible personal property or tangible personal property, in whole or in part, because he was not called upon by the property valuation administrator or for any other reason, may at any time list the property with the cabinet by reporting to the cabinet the full details and a correct description of the omitted property and its value. The cabinet may determine and fix the fair cash value, estimated at the price it would bring at a fair voluntary sale, of the property so reported and listed for taxation.

(2) Any person dissatisfied with or aggrieved by the finding or ruling of the cabinet may appeal *the*[~~such~~] finding or ruling in the manner provided in KRS 131.110.

(3) The cabinet *may*[~~ shall prescribe,~~] promulgate[~~ and provide such~~] administrative regulations, *and develop forms*[~~form and records as it deems necessary and proper~~] for the listing and assessment of the property[~~ so~~] assessed or to be assessed for taxation. The tax[~~ so~~] assessed shall be paid to and collected by the cabinet. Taxes collected by the cabinet on behalf of the county, school, and other local taxing districts shall be distributed to each district *at least*[~~no less often than~~] quarterly. *From each distribution, the cabinet shall deduct a fee which represents an allocation of cabinet operating and overhead expenses incurred in assessing and collecting the omitted tax. The fee shall be determined by the cabinet and shall apply to all omitted taxes collected after December 31, 1997.*

(4) All property assessed pursuant to this section shall be liable for the payment of the taxes, interest and penalties provided by law for failure to list the property with the property valuation administrator or other assessment board, commission or authority within the time and in the manner prescribed by law, except that if the taxpayer voluntarily lists property under this section the twenty percent (20%) penalty provided to be paid to the cabinet shall not apply, unless the taxpayer on an appeal from the action of the cabinet attempts to reduce the assessment and is unsuccessful.

(5) If after demand by the cabinet, any taxpayer refuses to voluntarily list any intangible or tangible personal property omitted from assessment, the cabinet shall make an estimate of the fair cash value of the omitted intangible or tangible personal property from ***the***[~~such~~] information in its possession and assess the property for taxation and require payment of the taxes, penalties and interest due to the state and local taxing districts from the person assessed. Notice of the assessment shall be mailed to the taxpayer or ***the taxpayer's***[~~his~~] agent. The finality and review of any assessment made pursuant to this section shall be governed by the provisions of KRS 131.110.

Section 2. KRS 132.486 is amended to read as follows:

(1) The Revenue Cabinet shall develop and administer a centralized ad valorem assessment system for intangible personal property and tangible personal property. This system shall be designed to provide on-line computer terminals and accessory equipment in every property valuation administrator's office in the state in order to create and maintain a centralized personal property tax roll database.

(2) State income tax returns and return preparation instructions shall be revised to facilitate the preparation of the personal property tax return; however, the personal property tax return shall be a separate document and shall be listed with the property valuation administrator in the county of taxable situs according to the provisions of KRS 132.220(1) or with the Revenue Cabinet. The Revenue Cabinet shall[~~ prescribe,~~] promulgate[~~ and provide such~~] administrative regulations ***and develop***[~~,~~] forms[~~ and records as it deems appropriate~~] for the listing and assessment of personal property.

(3) Appeals of personal property assessments shall not be made to the county board of assessment appeals. Personal property taxpayers shall be served notice under the provisions of KRS 132.450(4) and shall have the protest and appeal rights granted under the provision of KRS 131.110.

(4) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in a protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

Section 3. KRS 132.820 is amended to read as follows:

(1) The cabinet shall value and assess unmined coal, oil, and gas reserves, and any other mineral or energy resources which are owned, leased, or otherwise controlled separately from the surface real property at no more than fair market value in place, considering all relevant circumstances. Unmined coal, oil, and gas reserves and other mineral or energy resources shall in all cases be valued and assessed by the Revenue Cabinet as a distinct interest in real property, separate and apart from the surface real estate.

(2) Each owner or lessee of property assessed under subsection (1) of this section shall annually, between January 1 and April 15, file a return with the cabinet in a form as the cabinet may prescribe. Other individuals or corporations having knowledge of the property defined in subsection (1) of this section gained through contracting, extracting, or similar means may also be required by the cabinet to file a return.

(3) Any property subject to assessment by the cabinet under subsection (1) of this section which has not been listed for taxation, for any year in which it is taxable, by April 15 of that year shall be[~~ deemed~~] omitted property.

(4) After the valuation of unmined minerals or other energy sources has been finally fixed by the cabinet, the cabinet shall certify to the county clerk of each county the amount liable for county, city, or district taxation. The report shall be filed by the county clerk in his office, and shall be certified by ***the county clerk***[~~him~~] to the proper collecting officer of the county, city, or taxing district for collection.

(5) The notification, protest, and appeal of assessments under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 131.

(6) ***No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.***

(7) The collection of tax bills generated from the assessments made under subsection (1) of this section shall be made pursuant to the provisions of KRS Chapter 134.

Section 4. KRS 136.1877 is amended to read as follows:

(1) The Revenue Cabinet shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the cabinet in the manner outlined in KRS 136.1873 shall have forty-five (45) days from the date of the cabinet's notice of the tentative assessment[~~ in which~~] to protest ***as***[~~in the manner~~] provided by KRS 131.110.

(2) ***No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.***

(3) The state and local taxes on the property ***are***[~~shall become~~] due forty-five (45) days from the date of notice and shall be collected directly by the Revenue Cabinet.

(4)[~~(3)~~] The Revenue Cabinet shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.

(5)[~~(4)~~] The local taxes collected by the Revenue Cabinet shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Revenue Cabinet by any local taxing district under the provisions of KRS 136.180***(5)***[~~(4)~~] shall be deducted.

Section 5. KRS 136.180 is amended to read as follows:

(1) The Revenue Cabinet shall, immediately after fixing the assessed value of the operating property and other property of a public service corporation for taxation, notify the corporation of the valuation and the amount of assessment for state and local purposes. When the valuation has been finally determined, the cabinet shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount of property liable for county, city, or district tax.

(2) ***No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.***

(3) The Revenue Cabinet shall compute annually a multiplier for use in establishing the local tax rate for the operating property of railroads or railway companies that operate solely within the Commonwealth. The applicable local tax rates on the operating property shall be adjusted by the multiplier. The multiplier shall be calculated by dividing the statewide locally taxable business tangible personal property by the total statewide business tangible personal property.

(4)[~~(3)~~] The Revenue Cabinet shall annually calculate an aggregate local rate for each local taxing district to be used in determining local taxes to be collected for railroad carlines. The rate shall be the statewide tangible tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment. Effective January 1, 1994, state and local taxes on railroad carline property shall become due forty-five (45) days from the date of notice and shall be collected directly by the Revenue Cabinet. The local taxes collected by the Revenue Cabinet shall be distributed to each local taxing district levying a tax on railroad carlines based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Revenue Cabinet by any local taxing district under the provisions of subsection (4) of this section shall be deducted.

(5)[~~(4)~~] The certification of valuation shall be filed by each county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value certified by the cabinet shall pay an annual fee to the cabinet which represents an allocation of cabinet operating and overhead expenses incurred in generating the valuations. This fee shall be determined by the cabinet and shall apply to valuations for tax periods beginning on or after December 31, 1981.

HB 696, AN ACT relating to income taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1995, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

  (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

  (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

  (c) Include interest income derived from obligations of sister states and political subdivisions thereof;

  (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

  (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

  (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

  (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

  (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam; and

  (i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

    2. The "applicable amount" shall be:

      a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

      b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

      c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

      d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

    3. As used in this paragraph:

      a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;~~[.]~~

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;~~[and]~~

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; ***and***

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

HB 751, AN ACT relating to income taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.390 is amended to read as follows:

(1) As used in this section:

(a) "Postconsumer waste" means any product generated by a business or consumer which has served its intended end use, ***or any component or subassembly which can be harvested and reused*** and which has been separated from solid waste for the purposes of collection, recycling, composting, and disposition and which does not include secondary waste material or demolition waste;

(b) "Recycling equipment" means any machinery or apparatus used exclusively to process ***or separate*** postconsumer waste material and manufacturing machinery used exclusively to produce finished products ***or reusable components or subassemblies*** composed of substantial postconsumer waste materials; and

(c) "Composting equipment" means equipment used in a process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in a environmentally acceptable manner.

(2) A taxpayer who purchases recycling or composting equipment to be used exclusively within this state for recycling or composting postconsumer waste materials shall be entitled to a credit against the income taxes imposed pursuant to this chapter, in an amount equal to fifty percent (50%) of the installed cost of the recycling or composting equipment. The amount of credit claimed in the tax year during which the recycling equipment is purchased shall not exceed ten percent (10%) of the amount of the total credit allowable and shall not exceed twenty-five percent (25%) of the total of each tax liability which would be otherwise due.

(3) Application for a tax credit shall be made to the Revenue Cabinet on or before July 1 of the year following the calendar year in which the recycling or composting equipment is purchased. The application shall include a description of each item of recycling equipment purchased, the date of purchase and the installed cost of the recycling equipment, a statement of where the recycling equipment is to be used, and any other information as the Revenue Cabinet may require. The Revenue Cabinet shall review all applications received to determine whether expenditures for which credits are required meet the requirements of this section and shall advise the taxpayer of the amount of credit for which the taxpayer is eligible under this section.

HB 767, AN ACT relating to the Renaissance Kentucky Tax Credit Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Certified expenses" means expenses for a qualified rehabilitation project that have been certified by the Kentucky Heritage Council as meeting the requirements established under Sections 4 and 5 of this Act;

(b) "Certified historic structure" has the meaning given in Section 4 of this Act;

(c) "Nonhistoric renaissance structure" has the meaning given in Section 4 of this Act;

(d) "Qualified rehabilitation project" means any exterior, structural, mechanical, plumbing, or electrical improvements undertaken to restore, rehabilitate, or preserve the historic character of a certified historic structure or to preserve a nonhistoric renaissance structure that meets the standards established by Sections 4 and 5 of this Act; and

(e) "Renaissance Kentucky community" has the meaning given in Section 4 of this Act.

(2) (a) For taxable years beginning after December 31, 1998, a taxpayer meeting the requirements set forth in paragraph (d) of this subsection may claim a nonrefundable credit against the tax imposed by KRS 141.020 or 141.040 in an amount equal to twenty percent (20%) of certified expenses incurred for certified historic structures and ten percent (10%) of certified expenses incurred for nonhistoric renaissance structures. The maximum amount of certified expenses incurred for a qualified rehabilitation project for which tax credits may be awarded is five hundred thousand dollars ($500,000). The maximum tax credit available shall be certified by the Kentucky Heritage Council as provided in paragraph (d) of this subsection.

(b) If the maximum tax credit available to a taxpayer, as certified by the Kentucky Heritage Council is five thousand dollars ($5,000) or less the credit shall be taken in the tax year in which the qualified rehabilitation project is completed and certified. If the maximum tax credit available to a taxpayer, as certified by the Kentucky Heritage Council exceeds five thousand dollars ($5,000), the amount of tax credit that may be claimed in any one (1) taxable year shall not exceed twenty percent (20%) of the maximum tax credit available as certified by the Kentucky Heritage Council.

(c) Any tax credit or portion of a tax credit not used in the taxable year in which it first becomes available may be carried forward for up to five (5) years, but the carry forward of any excess tax credits shall not increase the twenty percent (20%) limitation established in paragraph (b) of this subsection.

(d) Notwithstanding any other law to the contrary, any taxpayer who has claimed the credit established by paragraph (a) of this subsection and who sells the structure on which the qualified expenses were made within five (5) years of the completion of the qualified rehabilitation project shall, in the tax year that the sale occurs, add an amount equal to the total credit taken under this section to that taxpayer's tax liability. Any

taxpayer who recaptures any credit under the provisions of this subsection forfeits any right to carry forward any amount of the credit not used as of the date of the sale of the certified historic structure or nonhistoric renaissance structure.

(e) A taxpayer may first claim the credit provided in paragraph (a) of this subsection for the tax year in which the qualified rehabilitation project is completed if all conditions required for qualification under Sections 4 and 5 of this Act are met, and the Kentucky Heritage Council issues a certificate in accordance with the provisions of Section 4 of this Act, establishing the qualified expenses incurred by the taxpayer. The taxpayer shall submit the certificate with the income tax return filed for the year in which the rehabilitation project is completed and with the income tax return filed for each year in which a credit is available.

(f) Credits certified for a partnership, limited liability company taxed as a partnership, subchapter S corporation, or multiple owners of property shall be passed through to the partners, members, or owners respectively pro rata or in accordance with an executed agreement among the partners, members, shareholders or owners documenting an alternate distribution method.

Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
  (a) The individual credits permitted by KRS 141.020(3);
  (b) The economic development credits computed under KRS 141.347, 141.400, 141.403, and 141.407;
  (c) The health insurance credit permitted by KRS 141.062;
  (d) The tax paid to other states credit permitted by KRS 141.070;
  (e) The credit for hiring the unemployed permitted by KRS 141.065;
  (f) The recycling or composting equipment credit permitted by KRS 141.390;
  (g) The Commonwealth Venture Fund credit permitted by KRS 154.20-340;
  (h) The low income credit permitted by KRS 141.066;~~[and]~~
  (i) The household and dependent care credit permitted by KRS 141.067*; and*
  (j) The renaissance rehabilitation credit permitted by Section 1 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
  (a) The individual withholding tax credit permitted by KRS 141.350; and
  (b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:
  (a) The economic development credits computed under KRS 141.347, 141.400, 141.403, and 141.407;
  (b) The health insurance credit permitted by KRS 141.062;
  (c) The unemployment credit permitted by KRS 141.065;
  (d) The recycling or composting equipment credit permitted by KRS 141.390;
  (e) The coal conversion credit permitted by KRS 141.041;
  (f) The enterprise zone credit permitted by KRS 154.45-090;~~[and]~~
  (g) The Commonwealth Venture Fund credit permitted by KRS 154.20-340*; and*
  (h) The renaissance rehabilitation credit permitted by Section 1 of this Act.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

SECTION 3. A NEW SECTION OF KRS 136.500 TO 136.575 IS CREATED TO READ AS FOLLOWS:

Every financial institution subject to the tax imposed by KRS 136.505 and meeting the requirements established in Sections 1, 4, and 5 of this Act may claim a nonrefundable credit against the tax imposed by KRS 136.505 in an amount equal to twenty percent (20%) of certified expenses incurred for certified historic structures and ten percent (10%) of certified expenses incurred for nonhistoric renaissance structures for taxable years beginning after December 31, 1998. All definitions, limitations, and requirements established in Section 1 of this Act shall apply to the credit allowed in this section. Any credits certified for financial institutions under this section shall be included in total credits certified for the purpose of the one million dollar ($1,000,000) cap established by subsection (4) of Section 4 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) The council shall develop standards for the operation and administration of the Kentucky Renaissance Tax Credit Program through the promulgation of administrative regulations. Renaissance tax credits shall be available for qualified expenditures made on qualified rehabilitation projects involving certified historic structures and nonhistoric renaissance structures. The council shall:

(a) Establish rehabilitation standards for certified historic structures located in a Renaissance Kentucky community based on standards developed by the United States Secretary of the Interior;

(b) Establish rehabilitation standards for nonhistoric structures located in a Renaissance Kentucky community;

(c) Establish standard application forms and certificates of completion for the tax credit program;

(d) Establish requirements that must be met before renaissance tax credits may be awarded, which shall include, at a minimum, the following:

1. Prior to the commencement of any restoration, rehabilitation, or preservation of a certified historic structure or nonhistoric renaissance structure, the taxpayer shall submit an application, any review fee required by the council, and the plans and specifications for the proposed project to the council and shall receive preliminary approval in writing from the council stating that the proposed project constitutes a qualified rehabilitation project;

2. Except as provided in subsection (3) of this section, the taxpayer shall complete the qualified rehabilitation project within twenty-four (24) months from the date the preliminary approval is granted, or within twenty-four (24) months of an alternative date specifically stated in the application filed in accordance with the provisions of paragraph (a) of this subsection; and

3. Qualified expenditures made by the taxpayer during the twenty-four (24) month period shall exceed the greater of five thousand dollars ($5,000) or the basis of the certified historic structure or nonhistoric renaissance structure, adjusted to exclude the value of the underlying land, as determined on the date of the application;

(e) Confirm, at the completion of a qualified rehabilitation project, that all requirements established by this section, Section 5 of this Act, and any administrative regulations promulgated by the council or criteria established by the Kentucky Housing Corporation have been met; and

(f) Certify in writing to the taxpayer when the qualified rehabilitation project is completed, the total qualified expenses incurred by the taxpayer.

(2) As used in this section:

(a) "Certified historic structure" means any structure that is:

1. Located within the designated downtown boundaries of a Renaissance Kentucky community;

2. Subject to depreciation as defined in Section 167 of the Internal Revenue Code, 26 U.S.C. sec. 167; and

3. Listed individually in the National Register of Historic Places or located in a registered historic district as certified by the Kentucky Heritage Council;

(b) "Nonhistoric renaissance structure" means any structure that:

1. Is located within the designated downtown boundaries of a Renaissance Kentucky community;

2. Is subject to depreciation as defined in Section 167 of the Internal Revenue Code, 26 U.S.C. sec. 167; and

3. Meets any other requirements as determined by the council;

(c) 1. "Qualified expense" means any expense properly chargeable to the rehabilitation, restoration, or preservation of the physical elements of the certified historic structure or nonhistoric renaissance structure. Qualified expenses include costs associated with demolition, carpentry, sheet rock, plaster, paint, ceilings, fixtures, doors and windows, fire sprinkler systems, roofing and flashing, exterior repair, tuck pointing, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.

2. "Qualified expense" does not include expenditures related to:

a. Acquisition of the property;

b. Any expenditure attributable to the enlargement of an existing structure;

c. Rehabilitation of a certified historic structure or a nonhistoric renaissance structure without prior approval of the reviewing entity;

d. Any expenditure attributable to landscaping, grading, excavation or paving, and other site features, outbuildings, garages, or related features;

e. Soft costs, such as appraisals, architectural, engineering, and interior design fees; legal, accounting, and realtor fees; loan fees, interest expenses; closing costs, building permit or license fees, inspection fees, or insurance cost; and

f. Interior furnishings.

(d) "Renaissance Kentucky community" means a community meeting criteria established by Kentucky Housing Corporation, in accordance with the provisions of Section 5 of this Act.

(3) The council may, upon request, grant a one (1) time extension of the completion deadline specified in subparagraph 2. of paragraph (d) of subsection (1) of this section. The extension shall be granted for a period not to exceed twenty-four (24) months and shall be granted only upon a showing of good cause.

(4) The total amount of new tax credits certified by the council for Sections 1 and 3 of this Act for all taxpayers for all qualified projects shall not exceed one million dollars ($1,000,000) in each calendar year.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

The corporation shall establish criteria for the designation of individual communities as "Renaissance Kentucky Communities." "Renaissance Kentucky Communities" are communities that have developed a plan to improve, restore, and revive the downtown area of the community. The criteria developed by the corporation shall require the establishment of designated downtown boundaries for renaissance communities. The criteria shall be developed in consultation with the Department of Local Government, the Kentucky Heritage Council, and the Kentucky League of Cities.

Section 6. This Act may be cited as the "Renaissance Kentucky Tax Credit Program Act".

Section 7. The provisions of Sections 1, 2, and 3 of this Act apply to taxable years beginning after December 31, 1998.

Section 8. Sections 1, 2, and 3 of this Act take effect January 1, 1999.

SB 19, AN ACT relating to income taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1995, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;~~[and]~~

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

  2. The "applicable amount" shall be:

    a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

    b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

    c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

    d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

  3. As used in this paragraph:

    a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

    b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

    c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code***; and***

(j) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but

maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. The amendment contained in Section 1 of this Act shall apply to taxable years beginning after December 31, 1997.

The Committee on Appropriations and Revenue reported **HB 255,** with Committee Substitute and Committee Amendments attached thereto, **HB 532,** with Committee Substitute attached thereto, and **SB 120** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to the Committee Substitute to **HB 255** is as follows:

On page 2, By deleting lines 22 through 25 in their entirety and inserting the following in lieu thereof:

"*(2) The schedule of benefits to be covered by the Children's Health Insurance Program shall be at least equivalent to one (1) of the following:*

(a) The standard Blue Cross/Blue Shield preferred provider option under the Federal Employees Health Benefit Plan established by 5 U.S.C. sec. 8903(1);

(b) A mid-range health benefit coverage plan that is offered and generally available to state employees; or

(c) Health insurance coverage offered by a health maintenance organization that has the largest insured commercial, non-Medicaid enrollment of covered lives in the state;".

The Committee Amendment No. 2 to the Committee Substitute to **HB 255** is as follows:

On page 4, on line 14, after "*216.2929*" by inserting the following: "*, which shall include reports on the program to be developed and submitted to the Governor and the Legislative Research Commission, twelve (12) months after the implementation of the program and annually thereafter, to include:*

(a) The scope of the program, including the insurer who writes the plan or any Medicaid program expansion;

(b) Number of children served and in what geographic areas;

(c) The range of benefits provided for each policy or program that offers health care benefits under this program;

(d) Complaints which are received by program or plan administrators by category of complaint and remedy proposed or provided for each;

(e) Recommendations for needed changes; and

(f) Costs of the program, including all categories of expenditures.".

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 321**, by Representative Yonts:

On page 121, after line 16 but before line 17, by inserting the following:

" General Fund 500,000"; and

On page 208, after line 3 but before line 4, by inserting the following:

" 37. Madisonville Community College
Muhlenberg County Classroom Building 500,000" and by renumbering subsequent subsections and adjusting subtotals and totals to conform.

Floor Amendment No. 2 to the Committee Substitute to **HB 321**, by Representative Treesh:

On page 215, between lines 13 and 14 by inserting:

"BM. GOVERNMENT OPERATIONS

Budget Unit Department for Local Government

142. Hancock County Volunteer Fire Department Building"; and

By renumbering subsequent sections accordingly and by adjusting totals and subtotals to conform.

Floor Amendment No. 1 to the Committee Substitute to **HB 616**, by Representative Long:

On page 8, after line 15, by inserting the following:

"Section 4. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

(1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;

(2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;

(3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;

(4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;

(5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;

(6) Engage in analyses and research to determine the overall needs of postsecondary education in the Commonwealth;

(7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;

(8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

(9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities and the Kentucky Community and Technical College System. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;

(10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;

(11) (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects

covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.

(b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;

(12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;

(13) Develop a university track program within the Kentucky Community and Technical College System consisting of sixty (60) hours of instruction that can be transferred and applied toward the requirements for a bachelor's degree at the public universities. The track shall consist of general education courses and pre-major courses as prescribed by the council. Courses in the university track program shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities. Successful completion of the university track program shall meet the academic requirement for transfer to a public university as a junior. By fall semester of 1997, requirements for track programs shall be established for all majors and baccalaureate degree programs;

(14) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;

(15) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:

(a) Consistency with the institution's mission and the strategic agenda;

(b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;

(c) Elimination of unnecessary duplication of programs within and among institutions; and

(d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;

(16) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

(17) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

(18) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;

(19) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;

(20) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;

(21) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes, but is not limited to, contractual arrangements for programs of research, specialized training, and cultural enrichment;

(22) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include

assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;

(23) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;

(24) Develop in cooperation with each state postsecondary educational institution a comprehensive orientation program for new members of the council and the governing boards. The orientation program shall include, but not be limited to, the information concerning the roles of the council, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget, plans, policies, strengths, and weaknesses;

(25) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;

(26) Select and appoint a president of the council under KRS 164.013;

(27) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;

(28) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;

(29) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;

(30) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions;

(31) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;

(32) Develop a statewide policy to promote employee and faculty development in all ***secondary area vocational education centers and*** postsecondary institutions through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a ***secondary area vocational education center or a*** postsecondary public institution may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term; and

(33) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college."; and

By renumbering the subsequent sections.

Calendar

HB 3, HB 253, HB 551, HJR 89, HB 335, HB 569, HB 704, HB 784, HB 801, HB 813, HB 857, HCR 94, HCR 113, HCR 125, HB 780, HB 911, HCR 124, HB 594, HB 700, HB 613, HB 566, HB 583, HB 738, HB 771, SB 126, HB 567, HB 630, HB 810, HCR 96, SB 44, SB 45, SB 320, HB 216, HB 522, HB 536, HB 616, HB 681, HB 706, HB 724, HB 779, HB 782, HB 805, HB 815, HB 859, HB 900 and **HB 920** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **SB 83**. Agreed.

Representative Stumbo moved that the rules be suspended to take **HB 652** from Committee and place in the Orders of the Day. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office, a Committee on Health and Welfare meeting in Room 305, and a Committee on Judiciary meeting in Room 304. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Recess (Continued)

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Appropriations and Revenue meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 33**, by Representative Long:

On page 1, line 11, by deleting "***the eleventh day of November;***"; and

On page 1, line 12 , by deleting "*(i)*"; and

on page 1, line 13, by deleting "*(j)*", and by deleting the brackets and strikethroughs, and by deleting "*and*": and

On page 1, line 14, by deleting "*(k)*" and by deleting the brackets and strikethroughs; and

On page 1, line 15, by inserting the following after "(2)":

State offices shall be open but each state employee shall, at the employee's option, be given a holiday on either:

(a) One (1) extra day immediately before or after the first day of January; or

(b) The eleventh day of November.

(3)"; and

On page 1, line 18, by inserting after "mentioned" the words "***in subsection (2) or***", and by bracketing and striking through "(a),(i)", and by deleting the "*,*"; and

On page 1, line 19, by bracketing and striking through "and" and by inserting, after "(j)", the words "***and (k)***"; and

On page 1, line 20, by inserting "*(4)*" in front of "(3)" and by bracketing and striking through "(3)".

Floor Amendment No. 3 to **SB 33**, by Representative Barrows:

On page 1, line 4 by removing the bracket and strike throughs;

On page 1, line 18 by bracketing and striking through "(i)" and deleting the "*,*" after the "(i)";

On page 1, line 19 by bracketing and striking through the word "and"; and

On page 1, line 19 after "(j)" by inserting "*, and (k)*".

Floor Amendment No. 2 the Committee Substitute to **HB 618**, by Representative Palumbo:

After the enacting clause, by deleting all text on page 1, line 1 through page 2, line 10 and inserting in lieu thereof:

"SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section, "medical literature" means the official United States Pharmacopoeia Drug Information, the American Hospital Formulary Service Drug Information, or published scientific studies published in any peer-reviewed national professional journal provided that each of the following applies:

(a) One article from a major peer-reviewed professional medical journal has recognized, based on scientific or medical criteria, the drug's safety and effectiveness for treatment of the indication for which it has been prescribed; and

(b) No article for a major peer-reviewed professional medical journal has concluded, based on scientific or medical criteria, that the drug is unsafe or ineffective or that the drug's safety and effectiveness cannot be determined for the treatment of the indication for which it has been prescribed; and

(c) Each article meets the uniform requirements for manuscripts submitted to biomedical journals established by the International Committee of Medical Journal Editors or is published in a journal specified by the United States Department of Health and Human Services pursuant to Section 1861(t)(2)(b) of the Social Security Act, 107 Stat. 591 (1993), 42 U.S.C. sec. 1395(x)(t)(2)(B), as amended, as accepted peer-reviewed medical literature.

(2) No health benefit plan issued or renewed on or after the effective date of this Act shall exclude coverage of any cancer drug for a particular indication on the grounds that the drug has not been approved by the Federal Food and Drug Administration for that indication, if the drug has been prescribed for a member or a member's dependent covered by the plan who has been diagnosed with cancer and is recognized as safe and effective for the treatment of the indication in the official compendium or in the medical literature.

(3) Any coverage of a cancer drug required by this section shall also include medically necessary services associated with the administration of this drug.

(4) This section shall not be construed to alter any existing law that limits the coverage of drugs that have not been approved by the Federal Food and Drug Administration.

(5) This section shall not be construed to require coverage for any drug when the Federal Food and Drug Administration has determined its use to be contraindicated.

(6) This section shall not be construed to require coverage for experimental drugs not otherwise approved for any indication by the Federal Food and Drug Administration.

(7) This section shall not be construed to require a health maintenance organization as defined by KRS Chapter 304.38-030 to cover any drug required by this section:

- *(a) When the drug is dispensed by a provider who does not have a contract with the health maintenance organization; or*
- *(b) When the drug is not included in the drug formulary of the health maintenance organization for any reason other than the exclusion prohibited by subsection (2) of this section.*

(8) The commissioner of the Department of Insurance shall create a panel of five (5) medical experts to review off-label uses not included in any of the official compendia or in the medical literature and to advise the commissioner whether a particular off-label use is medically appropriate. The meetings of the panel shall comply with the open meetings provisions of KRS Chapter 61. The panel shall make recommendations to the commissioner from time to time and whenever there is a particular dispute about payment under this section for the off-label drug use. The five (5) member panel appointed by the commissioner shall include:

- *(a) Three (3) medical oncologists recommended by the Kentucky Medical Association; and*
- *(b) Two (2) physicians recommended by the Kentucky Medical Association.*

(9) The commissioner shall have the authority to direct any person or agency which issues an insurance policy to make payments required by this section.".

Floor Amendment No. 4 to **SB 33**, by Representative Ballard:

On page 1, line 18, by bracketing and striking through "(a), (i)" and by deleting the comma ","; and

On page 1, line 19, by bracketing and striking through "and" and by inserting after "(j)" the words " *and (k)*".

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 556, SB 85, SB 136, SB 198, SB 221, HCR 11, HCR 15, HCR 16, HCR 17, HCR 18, HCR 20, HB 561, HB 666, HB 702, HB 746, HB 765, HB 785, HB 796, HB 853, HB 886, HB 891, HCR 97, HJR 118, HCR 126, SB 142, HB 3, HB 253, HB 335, HB 536, HB 551, HB 566, HB 567, HB 569, HB 583, HB 594, HB 616, HB 630, HB 681, HB 704, HB 706, HB 724, HB 738, HB 771, HB 779, HB 780, HB 782, HB 784, HB 801, HB 805, HB 810, HB 815, HB 857, HB 859, HB 900, HB 911, HB 920, HJR 89, HCR 94, HCR 96, HCR 125, HB 255,** and **HB 532** have been posted for passage in the Orders of the Day for March 13, 1998.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 887**

Floor Amendments (Continued)

Floor Amendment No. 5 to the Committee Substitute to **HB 321**, by Representative Damron:

On page 204 after line 26 but before line 27 by inserting the following:

"Notwithstanding any provisions of KRS 131.183, 134.580, 134.590, and 141.235 to the contrary, any federal retiree who filed a Kentucky individual income tax return for tax years 1986, 1987, or 1988, that included federal retirement income, and who paid the tax reported on the return, including the tax applicable to the federal retirement income, and who has not received a refund of the tax paid attributable to the federal retirement income shall have from July 1, 1998, until June 30, 1999, to file a claim for a refund of individual income tax paid attributable to the federal retirement income. A previously filed claim for refund for tax paid on federal retirement income shall qualify as a timely filed claim for refund. No court ordered attorney fees shall be deducted or paid and no interest shall be allowed or paid on any refunds made under the provisions of this section. All refund claims shall include all information and documentation required by the Revenue Cabinet and shall be postmarked June 30, 1999, or before. The refunds shall be paid out of the Statewide Infrastructure and Endowment Fund and shall be the first priority.".

Floor Amendment No. 2 to the Committee Substitute to **HB 285**, by Representative Damron:

On page 1, line 5, to delete "***prior to***" and to insert in lieu thereof "***after***"; and

On page 1, line 6, following "***patient***" to insert "***is attempted***"; and

On page 1, line 7, following "***paramedic***" to insert the following: "***, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the paramedic may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead***" and

On page 2, line 7, following "***any person***" to insert "***, other than a registered nurse rendering care pursuant to Section 2 of this Act,***"; and

On page 2, lines 13 to 19, to delete the same and to insert in lieu thereof:

"***(7) The resuscitative efforts of a paramedic under the protocols authorized by this section shall not invoke the provisions of KRS 446.400.***"; and

On page 2, line 24, to delete "***prior to***" and to insert in lieu thereof "***after***"; and

On page 2, line 25, following "***patient***" to insert "***is attempted***"; and

On page 2, line 27, following "***nurse***" to insert the following: "***, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the nurse may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead***"; and

On page 3, line 25, following "***person***" to insert "***, other than a paramedic rendering care pursuant to Section 1 of this Act,***" and

On page 4, lines 4 through 10, to delete the same and to insert in lieu thereof:

"***(7) The resuscitative efforts of a nurse under protocols authorized by this section shall not invoke the provisions of KRS 446.400.***".

Floor Amendment No. 1 to **HB 702**, by Representative Heleringer:

On page 1, line 15, following "(c)" to insert the following:

A statement, in bold lettering, declaring: "The partners to this marriage certify that they both have a well-developed sense of humor." Failure of both applicants for the marriage license to subscribe to this statement before the clerk shall result in denial of issuance of a marriage license;"; and

On page 1, line 15, following the language specified above and prior to the existing language beginning "***A statement***" to begin a new paragraph and to insert "***(d)***" prior to the language "***A statement***"; and

On page 1, line 22, to delete "***(d)***" and to insert in lieu thereof "***(e)***".

Floor Amendment No. 1 to the Committee Substitute to **HB 785**, by Representative Nunn:

On page 4, line 12, after "***section***" by deleting "***a hospital's***", and by inserting in lieu thereof, "***the***"; and

On page 4, line 12, after "***rate***", by inserting "***for hospitals with less than two hundred (200) licensed acute care beds,***"; and

On page 7, after line 4 and before line 5, by inserting the following:

"***(2) The enhanced Medicaid payment authorized under subsection (1) of this section shall not be implemented as part of the disproportionate share hospital program or if federal financial participation is not available.***"; and

On page 7, line 5, by deleting "***(2)***", and by inserting in lieu thereof, "***(3)***".

Floor Amendment No. 3 to the Committee Substitute to **HB 321**, by Representative Siler:

On page 172, between lines 3 and 4 by inserting the following:

"c. Local School District Calendar: Notwithstanding any other statute to the contrary, in any school district that adopted a calendar for the 1997-98 school year in which the equivalent of one thousand and fifty (1050) hours of instruction was completed in less than one hundred seventy-five (175) instructional days, the certified staff shall not be required to work more than four (4) in-service days, one (1) day for opening school and one (1) day for closing school, and shall be paid for four (4) holidays in addition to the instructional year, in order for the district and employees to receive full credit. If the school district requires that the certified staff work beyond this required time, then the school district shall pay extended employment to the employees for those days from its existing funds.".

Floor Amendment No. 10 to the Committee Substitute to **HB 324**, by Representative Nunn:

On page 1, line 13, after "***having a***", By deleting "***substantially similar***".

Floor Amendment No. 1 to the Committee Substitute to **HB 810**, by Representative J. Adams:

On page 1, line 5, after the word "***service***" delete the words "***or life safety***"; and

On page 1, line 9, after the word "***service***" delete the words "***or life safety***"; and

On page 1, line 18, after the word "***service***" delete the words "***or life safety***"; and

On page 2, line 2, after the word "***service***" delete the words "***or life safety***"; and

On page 3, line 15, after the word "***service***" delete the words "***or life safety***"; and

On page 7, line 2, after the word "***service***" delete the words "***or life safety***"; and

On page 8, line 6, after the word "***service***" delete the words "***or life safety***".

Floor Amendment No. 7 to the Committee Substitute to **HB 321**, by Representative Gooch:

On page 159, between lines 24 and 25, by inserting the following:

"29. The Kentucky Community and Technical College System (KCTCS) shall conduct a study to determine a plan of action to achieve a community college faculty salary level at the midpoint between the average Kentucky high school teacher salary and the average salary of the Kentucky public university faculty. The KCTCS shall also conduct a study to determine a plan of action to identify and achieve appropriate salary levels for non-managerial community college staff."

Floor Amendment No. 4 to the Committee Substitute to **HB 321**, by Representative Marcotte:

On page 201, between lines 23 and 24, by inserting the following new language:

"m. Biennial Highway Plan: Included in the state construction program for the utility phase of Boone County Highway Project Item Number 06-116.00, $50,000 for utility work is delayed from fiscal year 2000-2001 to fiscal year 2001-2002.".

Floor Amendment No. 11 to the Committee Substitute to **HB 324**, by Representative Callahan:

On page 1, by deleting lines 4 through 18, in their entirety, and by inserting in lieu thereof, the following:

"***(1) "Acquisition" means any acquisition by a person or persons of an ownership or controlling interest in a nonprofit hospital, whether by purchase, merger, transfer, exchange, option, lease, gift, or otherwise, which results in a change of ownership or control of twenty percent (20%) or greater or which results in the acquiring person or persons holding a fifty percent (50%) or greater interest in the ownership or control of a nonprofit hospital, but "acquisition" does not include the acquisition of an ownership or controlling interest in a nonprofit hospital owned by a nonprofit corporation if the person or persons acquiring an interest in the nonprofit hospital:***

- ***(a) Is a nonprofit corporation having a substantially similar charitable health care purpose as the transferor or is a governmental entity;***
- ***(b) Is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. sec. 501(c)(3), or as a governmental entity; and***
- ***(c) Will maintain representation from the affected community on the local board;***" and

On page 1, line 20, by deleting "***health facilities***" and by inserting in lieu thereof, "***hospitals***"; and

On page 1, line 23, by deleting "***health facilities***" and by inserting in lieu thereof, "***hospitals***"; and
On page 1, by deleting line 25 in its entirety, and by inserting in lieu thereof, the following:
"***(3) "Health care facility" means any hospital as defined under KRS Chapter 216B: and***"; and
On page 2, by deleting line 1 in its entirety; and
On page 2, line 5, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 2, line 9, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 2, line 11, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 3, line 3, by deleting "***health facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 3, line 7, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 3, line 8, by deleting "***facility's***" and by inserting in lieu thereof, "***hospital's***"; and
On page 3, line 11, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 3, line 12, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 3, line 22, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 4, line 7, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 4, line 16, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 4, line 21, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 5, line 3, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 5, line 4, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 5, line 4, by deleting "***health***" the second time it appears; and
On page 5, line 5, by deleting "***care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 5, line 6, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 5, line 11, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 5, line 21, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 6, line 17, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 7, line 1, by deleting "***health facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 7, line 22, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 8, line 5, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 8, line 6, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 8, line 8, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 8, line 10, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 8, line 12, by deleting "***facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 8, line 16, by deleting "***health care facility***" and by inserting in lieu thereof, "***hospital***"; and
On page 8, line 18, by deleting "***health facility***" and by inserting in lieu thereof, "***hospital***".

Floor Amendment No. 6 to the Committee Substitute to **HB 321**, by Representative Damron:

On page 25, line 12, by deleting the number, "32,415,300" and inserting in lieu thereof, "29,057,800"; and by deleting the number, "32,962,900" and inserting in lieu thereof, "29,405,400"; and

On page 25, on line 14, by deleting the number, "32,561,300" and inserting in lieu thereof, "29,203,800"; and by deleting the number, "33,113,400" and inserting in lieu thereof, "29,555,900"; and

On page 25, on line 16, after the period, by inserting the following, "Also included in the above General Fund appropriation is $2,500,000 in each fiscal year to provide training for at least one person from each local school district training equal to the existing training program for distinguished educators."; and

On page 28, on line 8, by deleting the number, "56,561,000" and inserting in lieu thereof, "59,918,500"; and by deleting the number, "66,364,000" and inserting in lieu thereof, "69,921,500"; and

On page 28, on line 15 by deleting the number, "$1,520,000", and inserting in lieu thereof, "$4,877,500"; and

On page 28, on line 16 by deleting the number, "$5,520,000", and inserting in lieu thereof, "$9,077,500"; and

On page 28, on line 18, after the period, by inserting the following, "Notwithstanding KRS 45.229, any unexpended

General Fund moneys available shall not lapse at the end of fiscal year 1998-99 but shall continue forward to fiscal year 1999-2000."; and

On page 82, on line 7, deleting the number "116,591,000", and by inserting in lieu thereof, "186,591,000"; and

On page 174, on line 3, after the word, "Educators" and before the colon, by inserting the following, "Training"; and by deleting the rest of the line; and

On page 174, by deleting lines 4 through 8 in their entirety; and by inserting the following, "Notwithstanding KRS 158.782, the Department of Education shall provide a training program equal to the program afforded distinguished educators during fiscal years 1994-95 through 1997-98 for at least one person from each local school district in each fiscal year. The training program shall be conducted at a location which will minimize the travel time required for persons attending the training program. Local school districts shall select persons to represent the district. The funding support provided in Part I, Operating Budget, C. Education, 24(d) shall be utilized to provide reimbursement of travel expenses equal to that provided to state officers and employees pursuant to administrative regulation 200 KAR 2:006. Persons selected to attend this training shall agree to provide assistance to the local district which they represent for a period not less than one year. Notwithstanding KRS 158.782 or KRS 161.220 persons selected pursuant to this provision shall receive no additional compensation or retirement benefits as a result of being selected to represent the district or in the capacity of providing assistance."; and

On page 175, by deleting lines 24 through 27 in their entirety; and

On page 176, by deleting line 1 in its entirety; and

By adjusting subtotals and totals accordingly.

Floor Amendment No. 1 to **HB 804**, by Representative Nunn:

On page 1, line 17, by deleting the words "***However, the total number of apprentices and***"; and

On page 1, lines 18 and 19, by deleting the language in its entirety; and

On page 3, line 24, after the second "***a***", by inserting "***preapprentice or***"; and

On page 4, line 25, by deleting the word "***or***" and inserting in lieu thereof a comma "***,***"; and

On page 4, line 25, after the word "***Training***", by inserting "***, or another agency that is recognized by the department***"; and

On page 6, line 26, by deleting the words "***All registered apprentices shall be issued a***"; and

On page 6, line 27, by deleting the words "***registration card by the Department of Labor.***"; and

On page 7, lines 14 and 15, by deleting the language in its entirety; and

On page 7, line 16, by deleting "***(c)***" and inserting in lieu thereof "***(b)***"; and

On page 7, line 18, by deleting "***(d)***" and inserting in lieu thereof "***(c)***"; and

On page 7, line 20, by deleting "***(e)***" and inserting in lieu thereof "***(d)***"; and

On page 7, line 22, by deleting "***(f)***" and inserting in lieu thereof "***(e)***"; and

On page 7, line 24, by deleting "***(g)***" and inserting in lieu thereof "***(f)***"; and

On page 7, line 27, by deleting "***(h)***" and inserting in lieu thereof "***(g)***"; and

On page 8, line 3, by deleting the words "***Association of Building***" and inserting in lieu thereof "***Associated Builders and***"; and

On page 12, line 23 by deleting "***, as follows:***" and inserting in lieu thereof a period "***.***"; and

On page 12, lines 24 through 27, by deleting the language in its entirety; and

On page 13, lines 1 through 3, by deleting the language in its entirety; and

On page 14, line 8, by deleting the words "***Each day shall be a separate***"; and

On page 14, line 9, by deleting the language in its entirety; and

On page 15, lines 22 through 25, by deleting the language in its entirety; and

On page 15, line 26, by deleting "***(3)***" and inserting in lieu thereof "***(2)***"; and

On page 16, lines 6 through 12, by deleting the language in its entirety.

Orders of the Day

HB 568, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of

members elected.

Representative Lovell moved the adoption of the Committee Substitute to **HB 568**. Agreed.

Representative Lovell moved that **HB 568**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 4 (See March 12, 1998 roll call on **HB 568** - Appendix.) **HB 568**, by way of Committee Substitute, was passed and the title agreed to. Representative Lovell moved that the vote by which **HB 568**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 425, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved that **HB 425** be passed.

On the roll call the vote was: Yeas 94, Nays 1 (See March 12, 1998 roll call on **HB 425** - Appendix.) **HB 425** was passed and the title agreed to. Representative DeWeese moved that the vote by which **HB 425** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 200, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 200**. Agreed.

Representative Long moved that **HB 200**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 12, 1998 roll call on **HB 200** - Appendix.) **HB 200**, by way of Committee Substitute, was passed and the title agreed to. Representative Long moved that the vote by which **HB 200**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 460, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 460**. Agreed.

Representative Long moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 460**. Agreed. Representative Long moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 460**. Agreed.

Representative Long moved that **HB 460**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0 (See March 12, 1998 roll call on **HB 460** - Appendix.) **HB 460**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Long moved that the vote by which **HB 460**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to **HB 289**, by Representative Barrows:

On page 3, line 8, by inserting the following new language after the word "money": "***may be retained by the corporation and added to the pool from which future prizes are to be awarded or used for special prize promotions, or may be appropriated in any amount by the General Assembly directly from the corporation to the affordable housing trust fund established pursuant to KRS 198A.710. For fiscal years 1998-99 and 1999-00, any unclaimed prize money in excess of six million dollars ($6,000,000) shall be transferred to the affordable housing trust fund.***";

On page 3, line 8, after the word "money" by inserting an opening bracket and striking through the words "shall be" and by deleting all new language; and

On page 3, line 9, by deleting the line in its entirety; and

On page 3, line 10, by deleting all new language and by deleting the opening bracket before the word "added".

Floor Amendment No. 5 to **HB 289**, by Representative Barrows:

On page 3, line 8, by inserting the following new language after the word "money": "***may be retained by the corporation and added to the pool from which future prizes are to be awarded or used for special prize promotions, or may be***

appropriated in any amount by the General Assembly directly from the corporation to the affordable housing trust fund established pursuant to KRS 198A.710.";

On page 3, line 8, after the word "money" by inserting an opening bracket and striking through the words "shall be" and by deleting all new language; and

On page 3, line 9, by deleting the line in its entirety; and

On page 3, line 10, by deleting all new language and by deleting the opening bracket before the word "added".

Floor Amendment No. 2 to **SB 135**, by Representative Ford:

On page 2, after line 2, by inserting:

"SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All health benefit plans shall provide coverage for cochlear implants for persons diagnosed with profound hearing impairment."

Orders of the Day (Continued)

HB 550, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of Committee Amendment No. 1 to **HB 550**. Agreed. Representative L. Clark moved the adoption of Committee Amendment No. 2 to **HB 550**. Agreed.

Representative L. Clark moved that **HB 550**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See March 12, 1998 roll call on **HB 550** - Appendix.) **HB 550**, as amended, was passed and the title agreed to. Representative L. Clark moved that the vote by which **HB 550**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 716, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 716**. Agreed.

Representative Damron moved that **HB 716**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 1 (See March 12, 1998 roll call on **HB 716** - Appendix.) **HB 716**, by way of Committee Substitute, was passed and the title agreed to. Representative Damron moved that the vote by which **HB 716**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 741, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of Floor Amendment No. 1 to **HB 741**. Agreed.

Representative Marcotte moved that **HB 741**, as amended, be passed.

On the roll call the vote was: Yeas 74, Nays 20 (See March 12, 1998 roll call on **HB 741** - Appendix.) **HB 741**, as amended, was passed and the title agreed to. Representative Marcotte moved that the vote by which **HB 741**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 8 to the Committee Substitute to **HB 321**, by Representative Worthington:

On page 201, between lines 23 and 24, by inserting the following new language:

"m. Biennial Highway Plan: Included in the state construction program for the right-of-way and utility phases of Gallatin County Highway Project Item Number 06-333.00, $4,500,000 for right-of-way work is advanced from fiscal year 1999-2000 to fiscal year 1998-1999, and $600,000 for utility work is advanced from fiscal year 2000-2001 to fiscal year 1999-2000.

Included in the state construction program for the design, right-of-way, utility, and construction phases of Gallatin County Highway Project Item Number 06-358.00, $300,000 for design work is advanced from fiscal year 1999-2000 to fiscal year 1998-1999, $500,000 for right-of-way work is advanced from fiscal year 2000-2001 to fiscal year 1999-2000".

Orders of the Day (Continued)

HB 753, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved the adoption of the Committee Substitute to **HB 753**. Agreed.

Representative Gray moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 753**. Agreed.

Representative Bowling moved that **HB 753**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 72, Nays 20 (See March 12, 1998 roll call on **HB 753** - Appendix.) Representative Siler cited Section 57 of the Kentucky Constitution and abstained. **HB 753**, by way of Committee Substitute as amended, was passed. Representative Bowling moved the adoption of Floor Amendment No. 2 Title to the Committee Substitute to **HB 753**. Agreed; and the title was agreed to. Representative Bowling moved that the vote by which **HB 753**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 98 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Alexander moved that **HJR 98** be adopted.

On the roll call the vote was: Yeas 95, Nays 0 (See March 12, 1998 roll call on **HJR 98** - Appendix.) **HJR 98** was adopted. Representative Alexander moved that the vote by which **HJR 98** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 185, HB 215, HB 259, HB 308, HB 352, HB 359, HB 361, HB 363, HB 366, HB 375, HB 405, HB 427, HB 445, HB 470,** and **HB 609** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 4:00 p.m.)

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 566**, by Representative Barrows:

On page 16, line 5, by deleting Section 9 in its entirety.

Floor Amendment No. 9 to the Committee Substitute to **HB 321**, by Representative Marzian:

On page 170, on line 20, after the word "students" by deleting the rest of the line; and

On page 170, by deleting lines 21 through 24 in their entirety; and

On page 170, on line 25, by deleting the words"day program for entry level student".

Orders of the Day (Continued)

HB 626, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 626**. Agreed.

Representative Damron moved that **HB 626**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 9 (See March 12, 1998 roll call on **HB 626** - Appendix.) **HB 626**, by way of Committee Substitute, was passed and the title agreed to. Representative Damron moved that the vote by which **HB 626**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 95 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HJR 95** be adopted.

On the roll call the vote was: Yeas 94, Nays 0 (See March 12, 1998 roll call on **HJR 95** - Appendix.) **HJR 95** was adopted. Representative L. Clark moved that the vote by which **HJR 95** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 769 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Graham moved that **HB 769** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 12, 1998 roll call on **HB 769** - Appendix.) **HB 769** was passed and the title agreed to. Representative D. Graham moved that the vote by which **HB 769** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 562, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the Committee Substitute to **HB 562**. Agreed.

Representative Deskins moved that **HB 562**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 83, Nays 1 (See March 12, 1998 roll call on **HB 562** - Appendix.) **HB 562**, by way of Committee Substitute, was passed and the title agreed to. Representative Deskins moved that the vote by which **HB 562**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 469, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 469**. Agreed.

Representative Moberly moved that **HB 469**, by way of Committee Substitute, be passed.

Representative Yonts moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 469**. Rejected.

Representative Moberly moved that **HB 469**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 12, 1998 roll call on **HB 469** - Appendix.) **HB 469**, by way of Committee Substitute, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 469**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 266, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved the adoption of the Committee Substitute to **HB 266**. Agreed.

Representative Treesh moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 266**. Agreed.

Representative Treesh moved that **HB 266**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 7 (See March 12, 1998 roll call on **HB 266** - Appendix.) **HB 266**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Treesh moved that the vote by which **HB 266**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 635 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 635** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 12, 1998 roll call on **HB 635** - Appendix.) **HB 635** was passed and the title agreed to. Representative Weaver moved that the vote by which **HB 635** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 690, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of Floor Amendment No. 1 to **HB 690**. Agreed. Representative Geveden moved the adoption of Floor Amendment No. 2 to **HB 690**. Agreed.

Representative Geveden moved that **HB 690**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 12, 1998 roll call on **HB 690** - Appendix.) **HB 690**, as amended, was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 690**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 588 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 588** be passed.

On the roll call the vote was: Yeas 86, Nays 1 (See March 12, 1998 roll call on **HB 588** - Appendix.) **HB 588** was passed and the title agreed to. Representative Gray moved that the vote by which **HB 588** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 675, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 675**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 675**. Agreed.

Representative Wilkey moved that **HB 675**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 0 (See March 12, 1998 roll call on **HB 675** - Appendix.) **HB 675**, by way of Committee Substitute as amended, was passed. Representative Wilkey moved the adoption of Committee Amendment No. 1 Title to **HB 675**. Agreed; and the title was agreed to. Representative Wilkey moved that the vote by which **HB 675**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 484 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 484** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 12, 1998 roll call on **HB 484** - Appendix.) **HB 484** was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 484** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 499 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 499** be passed.

On the roll call the vote was: Yeas 91, Nays 4 (See March 12, 1998 roll call on **HB 499** - Appendix.) **HB 499** was passed and the title agreed to. Representative Yonts moved that the vote by which **HB 499** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 641 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved that **HB 641** be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 12 , 1998 roll call on **HB 641** - Appendix.) **HB 641** was passed and the title agreed to. Representative Colter moved that the vote by which **HB 641** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 642, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute to **HB 642**. Agreed.

Representative Stein moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 642**. Agreed.

Representative Stein moved that **HB 642**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 48, Nays 47 (See March 12, 1998 roll call on **HB 642** - Appendix.) **HB 642**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Stein moved that the vote by which **HB 642**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 10 to the Committee Substitute to **HB 321**, by Representative Worthington:

On page 201, between lines 23 and 24, by inserting the following new language:

"m. Biennial Highway Plan: Included in the state construction program for the right-of-way and utility phases of Gallatin County Highway Project Item Number 06-333.00, $4,500,000 for right-of-way work is advanced from fiscal year 1999-2000 to fiscal year 1998-1999, and $600,000 for utility work is advanced from fiscal year 2000-2001 to fiscal year 1999-2000.

Included in the state construction program for the design, right-of-way, utility, and construction phases of Gallatin County Highway Project Item Number 06-358.00, $300,000 for design work is advanced from fiscal year 1998-1999 to fiscal year 1997-1998, $500,000 for right-of-way work is advanced from fiscal year 1999-2000 to fiscal year 1998-1999, $200,000 for utility work is added in fiscal year 1998-1999, and $2,000,000 for construction work is added in fiscal year 1999-2000.".

Floor Amendment No. 7 to **HB 535**, by Representative Anderson:

On page 1, line 4 by deleting "***two (2)***" and inserting "***four (4)***" in lieu thereof;

On page 1, line 4 after "***teachers,***" by inserting "***one (1) at-large member from the district,***";

On page 1, line 17 after the period "." by inserting the following:

"***The at-large member shall be elected for a one (1) year term through an election organized by the principal for this purpose.***".

Orders of the Day (Continued)

HCR 7 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HCR 7** be adopted.

On the roll call the vote was: Yeas 94, Nays 0 (See March 12, 1998 roll call on **HCR 7** - Appendix.) **HCR 7** was adopted. Representative Rasche moved that the vote by which **HCR 7** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 714, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved the adoption of the Committee Substitute to **HB 714**. Agreed.

Representative Colter moved that **HB 714**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 1 (See March 12, 1998 roll call on **HB 714** - Appendix.) **HB 714**, by way of Committee Substitute, was passed and the title agreed to. Representative Colter moved that the vote by which **HB 714**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 596 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HB 596** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 12, 1998 roll call on **HB 596** - Appendix.) **HB 596** was passed and the title agreed to. Representative L. Clark moved that the vote by which **HB 596** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 603 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 603** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 12, 1998 roll call on **HB 603** - Appendix.) **HB 603** was passed and the title agreed to. Representative Palumbo moved that the vote by which **HB 603** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 667 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **HB 667** be passed.

On the roll call the vote was: Yeas 87, Nays 8 (See March 12, 1998 roll call on **HB 667** - Appendix.) **HB 667** was passed and the title agreed to. Representative Bowling moved that the vote by which **HB 667** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 646, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected. Representative Stumbo moved that **HB 646** be placed back in the Orders of the Day. Agreed.

HB 659 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **HB 659** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See March 12, 1998 roll call on **HB 659** - Appendix.) **HB 659** was passed and the title agreed to. Representative Riggs moved that the vote by which **HB 659** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 665 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **HB 665** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See March 12, 1998 roll call on **HB 665** - Appendix.) **HB 665** was passed and the title agreed to. Representative Crenshaw moved that the vote by which **HB 665** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 717, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Substitute to **HB 717**. Agreed.

Representative Brown moved that **HB 717**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 1 (See March 12, 1998 roll call on **HB 717** - Appendix.) **HB 717**, by way of Committee Substitute, was passed and the title agreed to. Representative Brown moved that the vote by which **HB 717**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 727, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of the Committee Substitute to **HB 727**. Agreed.

Representative Hoffman moved that **HB 727**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 12, 1998 roll call on **HB 727** - Appendix.) **HB 727**, by way of Committee Substitute, was passed and the title agreed to. Representative Hoffman moved that the vote by which **HB 727**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 756, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved the adoption of Floor Amendment No. 1 to **HB 756**. Agreed.

Representative Crenshaw moved that **HB 756**, as amended, be passed.

On the roll call the vote was: Yeas 72, Nays 16 (See March 12, 1998 roll call on **HB 756** - Appendix.) **HB 756**, as amended, was passed and the title agreed to. Representative Crenshaw moved that the vote by which **HB 756**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 732 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 732** be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See March 12, 1998 roll call on **HB 732** - Appendix.) **Speaker Pro-Tempore Clark presiding. HB 732** was passed and the title agreed to. Representative Barrows moved that the vote by which **HB 732** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 768, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Alexander moved the adoption of the Committee Substitute to **HB 768**. Agreed.

Representative Alexander moved that **HB 768**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 5 (See March 12, 1998 roll call on **HB 768** - Appendix.) **HB 768**, by way of Committee Substitute, was passed and the title agreed to. Representative Alexander moved that the vote by which **HB 768**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 789 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

The Speaker resumed the Chair.

Representative Long moved that **HB 789** be passed.

On the roll call the vote was: Yeas 72, Nays 15 (See March 12, 1998 roll call on **HB 789** - Appendix.) **HB 789** was passed and the title agreed to. Representative Long moved that the vote by which **HB 789** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 880, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of Floor Amendment No. 1 to **HB 880**. Agreed.

Representative Haydon moved that **HB 880**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 12, 1998 roll call on **HB 880** - Appendix.) **HB 880**, as amended, was passed and the title agreed to. Representative Haydon moved that the vote by which **HB 880**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 11 to the Committee Substitute to **HB 321**, by Representative Moberly:

On page 3, line 20, by deleting the line in its entirety; and

On page 23, line 2, by deleting "17,127,000" and inserting in lieu thereof "17,127,500"; and

On page 44, line 26, by deleting the words "correctional officers" and inserting in lieu thereof the words "security staff"; and

On page 161, line 3, by deleting "2,500,000" in the fiscal year 1998-99 column and inserting "2,500,000" in the fiscal year 1999-2000 column; and

On page 161, line 13, by deleting "14,000,000" and inserting in lieu thereof "11,500,000"; and

On page 161, line 13, by deleting "11,500,000" and inserting in lieu thereof "14,000,000"; and

On page 170, line 25, by deleting the word "student" and inserting the word "students"; and

On page 198, line 18, by deleting "l" and inserting in lieu thereof "k"; and

On page 215, after line 13 and before line 14, by inserting the following:

"BM. GOVERNMENT OPERATIONS
Budget Unit Department for Local Government
142. Hancock County Volunteer Fire Department Building 100,000"; and
On page 215, line 14, by deleting "BM" and inserting in lieu thereof "BN"; and
On page 215, line 16, by deleting "142" and inserting in lieu thereof "143".

Floor Amendment No. 3 to the Committee Substitute to **HB 255**, by Representative Mason:

On page 3, line 10, after the word "*law*" by deleting the remainder of the line in its entirety; and
On page 3, by deleting lines 11 and 12 in their entirety; and
On page 3, line 13, by deleting "***Insurance Program***".

Orders of the Day (Continued)

HCR 103 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved that **HCR 103** be adopted.

On the roll call the vote was: Yeas 88, Nays 0 (See March 12, 1998 roll call on **HCR 103** - Appendix. **HCR 103** was adopted. Representative Jenkins moved that the vote by which **HCR 103** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 109 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HJR 109** be adopted.

On the roll call the vote was: Yeas 92, Nays 0 (See March 12, 1998 roll call on **HJR 109** - Appendix.) **HJR 109** was adopted. Representative Gray moved that the vote by which **HJR 109** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 111 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HR 111** be adopted.

On the roll call the vote was: Yeas 96, Nays 0 (See March 12, 1998 roll call on **HR 111** - Appendix.) **HR 111** was adopted. Representative Worthington moved that the vote by which **HR 111** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 114 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HCR 114** be adopted.

On the roll call the vote was: Yeas 92, Nays 1 (See March 12, 1998 roll call on **HCR 114** - Appendix.) **HCR 114** was adopted. Representative Palumbo moved that the vote by which **HCR 114** was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 595**, by Representative Brandstetter:

On page 2, line 18, after the "*;*" by inserting "***or***"; and
On page 2, line 19, by deleting "***; or***" and inserting in lieu thereof "*.*"; and
On Page 2, line 20, by deleting it in its entirety; and
On Page 3, line 4, by deleting the words, "***or should have known***"; and
On Page 3, line 8, after the word "***consumption***" and before the period "*.*", by inserting and underlining "***, or to otherwise regulate or license a public place and the activity therein***".

Orders of the Day (Continued)

HJR 116 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HJR 116** be adopted.

On the roll call the vote was: Yeas 95, Nays 0 (See March 12, 1998 roll call on **HJR 116** - Appendix.) **HJR 116** was adopted. Representative Worthington moved that the vote by which **HJR 116** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 121 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HJR 121** be adopted.

On the roll call the vote was: Yeas 94, Nays 0 (See March 12, 1998 roll call on **HJR 121** - Appendix.) **HJR 121** was adopted. Representative Wilkey moved that the vote by which **HJR 121** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 78, with Committee Substitute and Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of the Committee Substitute to **HB 78**. Agreed.

Representative A. Arnold moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 78**. Agreed. Representative A. Arnold moved the adoption of the Committee Amendment No. 2 to the Committee Substitute to **HB 78**. Agreed.

Representative A. Arnold moved that **HB 78**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 12, 1998 roll call on **HB 78** - Appendix.) **HB 78**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative A. Arnold moved that the vote by which **HB 78**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 12 to the Committee Substitute to **HB 324**, by Representative DeWeese:

By deleting all material after the enacting clause and inserting in lieu thereof:

"Section 1. There is created a task force to study issues relating to the acquisition of nonprofit health care facilities in the Commonwealth. The membership of the task force shall be appointed by September 1, 1998, and shall consist of nine (9) members as follows:

(1) A Representative of the General Assembly appointed by the Speaker of the House;
(2) A Senator of the General Assembly appointed by the President of the Senate;
(3) A representative of the Office of the Attorney General nominated by the Attorney General;
(4) A representative of a nonprofit hospital nominated by the Kentucky Hospital Association;
(5) A representative of a for-profit hospital nominated by the Kentucky Hospital Association;
(6) A representative of a for-profit nursing home facility nominated by the Kentucky Association of Health Care Facilities;
(7) A representative of a nonprofit nursing home facility nominated by the Kentucky Association of Homes for Aging;
(8) A representative of the Kentucky Home Health Association; and
(9) A representative of the Cabinet for Human Resources nominated by the secretary.

Section 2. The majority of the members shall constitute a quorum. The members shall elect one (1) member to serve as chair and one (1) member to serve as vice chair. The task force shall meet quarterly and may meet more often upon the call of the chair or by a majority of the members.

Section 3. The task force report shall be submitted to the Legislative Research Commission by July 1, 1999.

Section 4. Staff services to be utilized in completing the report in Section 3 of this Act are estimated to cost $20,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.".

Floor Amendment No. 13 to the Committee Substitute to **HB 324**, by Representative DeWeese:

On page 8, by deleting lines 16 to 20 in their entirety; and

On page 8, line 21, by deleting "*(2)*".

Orders of the Day (Continued)

HB 211, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of Floor Amendment No. 3 to **HB 211**. Agreed.

Representative Nunn moved that **HB 211**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 2 (See March 12, 1998 roll call on **HB 211** - Appendix.) **HB 211**, as amended, was passed and the title agreed to. Representative Nunn moved that the vote by which **HB 211**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 377, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 377**. Agreed.

Representative Marzian moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 377**. Agreed.

Representative Marzian moved that **HB 377**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 1 (See March 12, 1998 roll call on **HB 377** - Appendix.) **HB 377**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 377**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 447, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of Committee Amendment No. 1 to **HB 447**. Agreed.

Representative Lee moved that **HB 447**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 12, 1998 roll call on **HB 447** - Appendix.) **HB 447**, as amended, was passed and the title agreed to. Representative Lee moved that the vote by which **HB 447**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 12 to the Committee Substitute to **HB 321**, by Representative Ratliff:

On page 8, line 12, by deleting "thirty-five percent (35%)" and inserting in lieu thereof "one hundred percent (100%)"; and

On page 8, line 13, by deleting "and thirty-eight percent (38%)' and inserting in lieu thereof "one hundred percent (100%)"; and

On page 9, line 7, by deleting "fourteen percent (14%)" and inserting in lieu thereof "forty percent (40%)"; and

On page 204 after line 26, but before line 27 by inserting the following:

"The sixty-five percent (65%) increase in the percentage required to be returned to the Local Government Economic Development Fund and the Local Government Economic Assistance Fund in fiscal year 1998-99 and the sixty-two percent (62%) increase in the percentage required to be returned to the Local Government Economic Development Fund and the Local Government Economic Assistance Fund in fiscal year 1999-2000 shall be paid out of the Statewide Infrastructure and Endowment Fund and shall be the first priority.".

Orders of the Day (Continued)

HB 658, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Graham moved the adoption of Committee Amendment No. 1 to **HB 658**. Agreed.

Representative D. Graham moved that **HB 658**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See March 12, 1998 roll call on **HB 658** - Appendix.) **HB 658**, as amended, was passed. Representative D. Graham moved the adoption of Committee Amendment No. 2 Title to **HB 658**. Agreed; and the title was agreed to. Representative D. Graham moved that the vote by which **HB 658**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 289, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Committee Amendment No. 1 to **HB 289**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 2 to **HB 289**. Agreed.

Representative Wayne moved that **HB 289**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See March 12, 1998 roll call on **HB 289** - Appendix.) **HB 289**, as amended, was passed. Representative Wayne moved the adoption of Floor Amendment No. 3 Title to **HB 289**. Agreed; and the title was agreed to. Representative Wayne moved that the vote by which **HB 289**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 31, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 31** is as follows:

On page 3, line 20, by deleting "***a certificate authorizing the agency***", and replacing it with "***authorization***"; and

On line 26, after "***(2)***" by inserting, "***To satisfy the board's authorization, the applicant shall comply with administrative regulations promulgated by the board which contain standards for proper storage and handling of the drugs the board has authorized for use, and any other provisions as may be necessary to ensure that the drugs are used safely and solely for the purpose set forth in this section.***

(3) If the registration certificate is granted by the federal Drug Enforcement Agency, and the applicant otherwise satisfies the requirements of the Board of Veterinary Examiners, the board shall certify the animal control agency to euthanize animals.

(4)"; and

On page 4, line 4, by deleting "***(3)***" and inserting "***(5)***"; and

On line 14, by deleting "***(4)***" and inserting "***(6)***".

On page 3, line 12 and 24, and on page 4, line 1,3,7, and 9, by deleting "***technician***" and replacing it with "***specialist***"; and

On page 4, On line 8, by deleting "***(2)***" and inserting "***(4)***"; and

On page 4, line 14, by deleting "***technicians***" and replacing it with "***specialists***".

Representative Nunn moved that the House concur in Senate Committee Amendment No. 1 to **HB 31**. Agreed.

Representative Nunn moved that **HB 31**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See March 12, 1998 roll call on **HB 31** - Appendix.) **HB 31**, as amended by the Senate, was passed and the title agreed to. Representative Nunn moved that the vote by which **HB 31**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 76**, by Representative Hogancamp:

On page 4, line 7, before the second "***to***" to insert the word "***either***"; and

On page 4, line 8, after "***(D.A.R.E.)***" to insert the words "***or to any treatment or prevention program for drug or alcohol abuse that a local government administers, refers individuals to, or contracts to administer,***"

Floor Amendment No. 1 to the Committee Substitute to **HB 536**, by Representative Moberly:

On page 2, line 7, by deleting "***optional***";

On page 2, line 8, by inserting a closing right bracket after "[~~for~~" and removing the strike-throughs and closing bracket from "~~a series of state-sponsored~~]";

On page 2, lines 10-13, beginning with the word "***Programs***", by deleting all new and underlined language through line 13, ending with "***appropriate.***";

On page 2, line 18, after "development", by deleting "***programs may include, but not be limited to,***";

On page 2, line 18, by removing the brackets and strikethroughs from "[~~shall~~]"and

On page 2, line 18, after "[~~shall~~]", by inserting "***be consistent with current standards and best practice. Activities shall include but not be limited to***";

On page 2, line 19, by removing the left open bracket in front of "[~~during~~";

On page 2, line 18, by placing a left open bracket and striking through "focus";

On page 2, line 19, by striking through "on the following areas";

On page 2, line 20, after "(a)", by deleting "***Curriculum content and methods of instruction for each content area***" and inserting the following in lieu thereof: "***Exposure to research-based instructional practices that promote academic achievement for students with different learning needs at the elementary, middle, and high school levels***";

On page 2, line 22, after "(b)", by inserting "***Information about instructional materials, academic content, demonstration projects, and successful model programs including instructional uses of technology***";

On page 2, line 22, by bracketing and striking through "School-based decision making";

On page 2, line 23, after "(c)", by inserting "***Training in assessment strategies, including strategies to integrate writing portfolio entry development with content instruction***";

On page 2, line 23, by bracketing and striking through "Performance-based student assessment";

On page 2, line 23, after the semi-colon ";" by inserting "***and***";

On page 2, line 24, after "(d)", by placing an open left bracket in front of "Nongraded" and striking through all existing language beginning with "Nongraded" through "technology;" on line 26;

On page 2, line 26, by removing the brackets from around "[~~and~~]";

On page 2, line 27, by striking through "~~(g)~~" and placing a closing right bracket after "(g)";

On page 2, line 27, after "(g)" by deleting all new language beginning with "***Curriculum***" to the end of the line;

On page 3, line 1, by deleting all new and underlined language;

On page 3, line 2, by deleting "***;***";

On page 3, lines 1 and 2, by removing the brackets and strike-throughs from all words beginning with "Effective" and ending with "nurture";

On page 3, lines 3 and 4, beginning with "***(h)***" by removing all new and underlined language through "***leadership***";

On page 3, lines 5 through 8, after "[~~(5)~~]" by deleting all new and underlined language through "***programming.***" on line 8;

On page 3, lines 8 and 9, by removing the brackets and strike-throughs from "[~~of Education~~]";

On page 3, line 9, after "shall" by removing all new and underlined language and inserting in lieu thereof "***assure that***";

On page 3, line 10, after "development", by deleting all new and underlined language;

On page 3, line 11 by deleting "***learning***";

On page 3, line 11, by removing the open left bracket and strike-throughs beginning with "[~~activities~~" through "~~personnel~~";

On page 3, line 11, after, "activities", by inserting "***are offered***"; and

On page 3, line 21, by inserting an open left bracket before "~~During~~"; and

On page 3, between lines 19 and 20, by inserting:

"***(5) The Department of Education shall utilize its regional service centers, in addition to collaboration with postsecondary education institutions, education cooperatives and consortia, and professional education organizations, to***

provide local district personnel with access to high quality programming. The department shall assist local school personnel in assessing the impact of professional development on their instructional practices and student learning.";

On page 3, line 20, by changing "*(5)*" to "*(6)*"; and

On page 4, line 12, by changing "*(6)*" to "*(7)*".

Orders of the Day (Continued)

HB 234, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 234** is as follows:

HB 234, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages paid to the employee as a result of services performed for the employer ***which are includable on the member's federal form W-2 wage and tax statement***, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the five (5) year period, multiplied by twelve (12); the five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the State Police Retirement System, a member of the County Employees Retirement System or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of ***the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an act in line of duty shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description***[~~duty~~];

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;[~~ and~~]

(31) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically-demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically-acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests***;***

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year; and

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543.

Section 2. KRS 16.520 is amended to read as follows:

(1) Membership in the system shall consist of all regular full-time officers of the Kentucky State Police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers except those who do not choose to participate pursuant to KRS 61.545(3).

(2) Membership in the system shall not include those employees who are simultaneously ***participating in***[~~contributing to~~] another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360***.

Section 3. KRS 16.582 is amended to read as follows:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

(c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer ***as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630*** shall be considered.

(d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) The person shall be less than normal retirement age;

(c) The person's application shall be on file in the retirement office no later than twelve (12) months after the person's last day of paid employment***, as defined in Section 1 of this Act,*** as a regular full-time officer or in a regular full-time hazardous position ***under KRS 61.592***;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No disability application ***based on the same claim of incapacity*** shall be accepted ***and considered for disability*** for any person who has previously applied for and been denied disability benefits unless ***it***[~~an application based on the same claim of incapacity~~] is accompanied by evidence of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;
2. Injury or disease resulting from military service; or
3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:
    a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or
    b. The person has at least sixteen (16) years current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, subject to the following:

(a) If the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally-appointed guardian, or as directed by the system.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job

description by the system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 4. KRS 16.596 is amended to read as follows:

Once each year following the retirement of a member on a disability retirement allowance, ***or less frequently as determined by the board's medical examiner but not less than once every five (5) years,*** the system may require the member, prior to his normal retirement date, to undergo a medical examination and financial review. If the member refuses to submit to the medical examination, his retirement allowance shall be discontinued until his withdrawal of refusal, and if he continues to refuse for one (1) year, all his rights to any further disability allowance shall cease.

Section 5. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, delayed contribution and installment payments, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided~~ by~~ KRS 61.705;

(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615;

(26) Service credit, Armed Forces, as provided by KRS 61.555;

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;~~[and]~~

(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699***; and***

(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592.

Section 6. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and

employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer ***which are includable on the member's federal form W-2 wage and tax statement***, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour work days, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30***, which shall also be the plan year***;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

   (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

   (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

   (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

   (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;~~[and]~~

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically-

demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically-acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests***; and***

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 7. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously ***participating in***[~~contributing to~~] another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360***; and

(8) ***Effective January 1, 1998,*** employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; ***employees who were previously contributing members transferred from the Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e);*** and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 8. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) ***(a)*** Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, to work less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment shall be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. If the additional service credit is not purchased by December 31 following the close of each school year, the member shall pay interest on the cost of purchasing the credit at a rate established by the board of trustees. Members who have service credit prior to July 1, 1992, or their employers, may purchase service credit for previous years by paying the retirement system the member and employer contributions calculated on the average monthly rate, multiplied by the number of months to be purchased plus interest at the actuarial rate.

(b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay the employer contributions plus interest and the employee shall pay the employee contributions plus interest. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.

(3) *(a)* An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

(b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 9. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4),

by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) ***After***[~~Effective~~] August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14), (15), and (17) to ***(25)***[~~(19)~~] of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this

section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (16)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(c) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in Section 402 (c) and Section 401(a)(31) of the Internal Revenue Code. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) ***After August 1, 1998,*** any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months service ***credit in the Kentucky Employees Retirement System or the County Employees Retirement System*** or, if younger, who has sixty (60) months service ***credit in the Kentucky Employees Retirement System or the County Employees Retirement System*** may purchase credit in the ***system in which the employee has the service credit***[~~Kentucky Employees Retirement System~~] for up to ten (10) years service in a regular full-time position that was credited to a state or local government administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) ***After August 1, 1998,*** any employee participating in ***one (1) of the state-administered retirement systems***[~~the County Employees Retirement System~~], who has sixty (60) or more months of service ***in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System***, may purchase credit in the ***system in which the employee has the sixty (60) months of service credit***[~~County Employees Retirement System~~] for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20)[~~(a)~~] An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. ***Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.***

[~~(b) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), who has served or is currently serving in an office established pursuant to KRS 160.160, and who has at least fifteen (15) years of service, may obtain credit not to exceed two (2) years for the period of his service in the office established pursuant to KRS 160.160, if the service to be purchased does not overlap with service in a position covered by another state administered retirement system, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. The purchase of this service shall be made prior to December 31, 1996.~~

~~(c) Payment for purchase of service pursuant to paragraphs (a) and (b) of this subsection may be made in installments in lieu of lump sum payment. The payment shall not be picked up, as described in KRS 61.560(4), and shall be deposited to the individual member's account.~~]

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23) Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.

(24) (a) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or Section 23 of this Act may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(25) Any employee participating in one (1) of the state-administered retirement systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the

former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

Section 10. KRS 61.555 is amended to read as follows:

(1) ***After August 1, 1998,*** any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he ***returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems***~~[is reemployed]~~ within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) ***After August 1, 1998,*** any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who ***returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems***~~[was or is reemployed]~~ within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

Section 11. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1) or 78.615(1);

(b) The person shall be less than normal retirement age;

(c) The person's application shall be on file in the retirement office no later than twelve (12) months after the person's last day of paid employment***, as defined in Section 6 of this Act,*** in a regular full-time position***, as defined in Section 6 of this Act or Section 21 of this Act***;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No disability application ***based on the same claim of incapacity*** shall be accepted ***and considered for disability*** for any person who has previously applied for and been denied disability benefits unless ***it***[~~an application based on the same claim of incapacity~~] is accompanied by evidence of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position.

(2) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer ***as provided in 42 U.S.C. sec. 12111(9) and 29 C. F. R. Part 1630*** shall be considered;

(b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent. ***For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.***

(3) Paragraph (d) of subsection (2) shall not apply if:

(a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

(b) The person has at least sixteen (16) years current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of

medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) Persons who have previously qualified for disability retirement and have had benefits discontinued shall be reevaluated under the criteria of subsection (2) of this section.

Section 12. KRS 61.605 is amended to read as follows:

Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his sixty-fifth (65th) birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, an employee has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to thirty (30) years. When the employee has accumulated total service of thirty (30) or more years, his total service shall be used in computing disability benefits. ***For employees hired on or after the effective date of this Act, the total service and added service for determining disability benefits shall not exceed twenty-seven (27) years.***

Section 13. KRS 61.610 is amended to read as follows:

(1) Once each year following the retirement of a member on a disability retirement allowance, ***or less frequently as determined by the board's medical examiner but not less than once every five (5) years,*** the system may require the person, prior to his normal retirement date, to undergo a financial and medical staff review and, if necessary, be required to submit current medical information. If he refuses to submit to a medical examination, his retirement allowance shall be discontinued until his withdrawal of refusal, and if the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

(2) Disability retirees whose effective retirement date is August 1, 1988, or thereafter shall undergo an annual financial and medical staff review and, if necessary, be required to submit current medical information.

Section 14. KRS 61.625 is amended to read as follows:

(1) ***A***[~~If a member's employment has been terminated or if the member is employed by a participating employer in an employment status as defined in KRS 61.510(21)(a) to (d) or 78.510(21)(a) to (d), that does not require the member to participate in the system, the~~] member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his accumulated contributions, including the amount of any employee contributions picked up by the employer pursuant to KRS 61.560(4), reduced by the amount of any retirement allowances previously received ***if:***

(a) The member's employment has been terminated and the member is not participating in the same retirement system;

(b) The member is employed in an employment status as defined in paragraphs (a) to (d) of subsection (21) of Section 6 of this Act that does not require the member to participate in the system; or

(c) The member has been laid off for ninety (90) days or more.

(2) Payments made under this section shall be in lieu of any other benefits due for the period of service under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, unless the period of service is regained as provided under KRS 61.552. Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.

(3)[~~(2)~~] Refund of contributions of members whose benefits have been terminated pursuant to KRS 6.696 shall be governed by that section.

Section 15. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth, one (1) of whom shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to, the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require***, notwithstanding the provisions of KRS Chapters 45 and 45A***;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate, not less than six (6) months before a term of office of a trustee is due to expire, at least three (3) constitutionally-eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the commissioner of personnel resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; ***and***

(e)[~~ Expend funds for goods and services pursuant to the provisions of KRS Chapter 45A as they apply to state agencies, but if the board designates an emergency by letter to the secretary of the Finance and Administration Cabinet, the secretary shall within thirty (30) days of submission approve or reject a proposed personal service contract submitted to him by the board pursuant to KRS 45A.045. If the secretary rejects the proposed contract, he shall provide a detailed written statement of his reasons therefor. If the secretary fails or refuses to act within the thirty (30) day period, the proposed contract shall be deemed approved without further action pursuant to KRS 45A.045; and~~

~~(f)~~] Do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 conform with federal statute or regulation. Provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 which conflict with federal statute or regulation shall not be available to the member. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation.

(10) All employees of the board shall serve during its will and pleasure. ***Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.***

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 ***or Chapter 13B***.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system[~~, including investment related expenditures,~~]

shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

Section 16. KRS 61.650 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders and may acquire real estate without obtaining the approval of the District Court as set forth in KRS 386.020(1)(h). Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds. The board members or any investment manager shall discharge their duties with respect to the assets of the several funds solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) In accordance with the laws, administrative regulations and other instruments governing the several funds.

(2) All registered securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

Section 17. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, practicing in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them.

(2) (a) Each employee requesting disability retirement shall furnish the retirement office with the names and addresses of two (2) or more physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also ***file at the retirement office***[~~submit~~] a complete description of the job and duties from which he received his last pay as well as evidence that the employee has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630.

(b) The employer shall ***file at the retirement office***[~~submit~~] a complete description of the job and duties for which the employee was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board.

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to two (2) additional medical examiners. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. Recommendations by the examiners shall be submitted to the board for approval.

(f) If the medical examiners recommend that the employee be approved for disability retirement, the general manager shall make retirement payments in accordance with the retirement plan selected by the employee.

(g) If the medical examiners recommend that the employee be denied disability retirement, the general manager shall notify the employee of this recommendation. The employee shall have sixty (60) days to ***file at the retirement office***[~~submit~~] additional medical information[~~ to the retirement office~~] or to appeal his denial for disability benefits by ***filing at the retirement office a request for***[~~requesting~~] a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing.

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(3) Any person aggrieved by a final order or determination of the system may ***file at the retirement office a*** request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may ***file at the retirement office a*** request ***for*** an administrative hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the general manager, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, except as provided in KRS 61.600(1)(e). This paragraph shall not limit the member's right to appeal to a court.

(c) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(f) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 18. KRS 61.675 is amended to read as follows:

(1) The employer shall prepare the records and, from time to time, shall furnish the information the system may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him of his duties and obligations in connection with the system as a condition of employment.

(2) The system may at any time conduct an audit of the employer in order to determine if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine all books, accounts, reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a department or county, as defined in KRS 78.510(3), having records in his possession or under his control, shall permit access to and examination of the records upon the request of the system.

(3) Any agency participating in the Kentucky Employees Retirement System which is not an integral part of the executive branch of state government shall forward the employer and employee contributions required under KRS 61.560 and 61.565 to the retirement office within twenty (20) days of the tenth day of the month following the period being reported. If the agency fails to forward all contributions within the twenty (20) days, interest at the actuarial rate adopted by the board compounded annually on the delinquent contributions, but not less than one hundred dollars ($100), shall be added to the amount due the system.

Section 19. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County

Employees Retirement System and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for thirty (30) year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. ***A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.***

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall

contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System***, Legislators' Retirement Plan,*** or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan[~~ or Legislators' Retirement Plan~~], is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system***.***[~~, but~~] The final compensation shall be determined ***by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems***[~~as if all service were in one (1) system~~].

Section 20. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid***:***

1. ***Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;***

2. ***Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;***

3. ***Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;***

4. ***Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient.***

If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

5. In full from the ***Kentucky Retirement Systems*** insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in the line of duty, as defined in KRS 16.505(19), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty, as defined in KRS 16.505(19), shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member ***electing insurance coverage through the Kentucky Retirement Systems***[~~of the County Employees Retirement System~~], "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service ***credit in one of the other state-administered retirement plans***[~~for which benefits are eligible under KRS 21.345 to 21.510~~].

1. ***Effective August 1, 1998***[~~Upon request by a member~~], the Kentucky Retirement Systems shall compute the member's combined service, including service credit in ***another state-administered retirement plan***[~~the Judicial Retirement System~~], and calculate the portion of the member's premium to be paid by the ***insurance fund***[~~County Employees Retirement System~~], according to the criteria established in paragraph (a) of this subsection. ***Each state-administered retirement plan***[~~The Judicial Retirement Fund~~] annually shall pay to the ***insurance fund***[~~County Employees Retirement System~~] the percentage of the system's cost of the retiree's ***monthly contribution for single coverage for*** hospital and medical ***insurance***[~~premium~~] which shall be equal to the percentage of the member's number of months of service in the ***other state-administered retirement plan***[~~Judicial Retirement System~~] divided by his total combined service. The amounts paid by the ***other state-administered retirement plans and the insurance fund***[~~Judicial Retirement Fund and the County Employees Retirement System~~] shall not be more than one hundred percent (100%) of the ***monthly contribution***[~~single premium amount~~] adopted by the respective boards of trustees[~~, or more than the maximum percentage payable under the program established under this section or KRS 21.427~~].

2. A member ***may not elect coverage for***[~~who elects~~] hospital and medical benefits under this subsection ***through more than one of the state-administered retirement plans***[~~shall lose any claim to insurance benefits under the Judicial Retirement Plan as described in KRS 21.427, and the election shall be irrevocable~~].

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) ***(a)*** Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay ***a***[~~the same~~] percentage of the ***monthly contribution***[~~premium~~] for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary[~~, as the fund pays or paid for the member~~]. ***The percentage of the monthly contribution paid for the spouse and dependents shall be***

based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section.

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

Section 21. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer ***which are includable on the member's federal form W-2 wage and tax statement***, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of

months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30***, which shall also be the plan year***;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary***, also referred to as probationary,*** positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;[~~ and~~]

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in

KRS 212.434***; and***

(31) "Participating" means an employee is currently earning service credit in the system as provided in Section 23 of this Act.

Section 22. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(2) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852; and

(3) All persons electing coverage in the system under KRS 78.530(3)(d).

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(5) Membership in the system shall not include those employees who are simultaneously ***participating in***[~~contributing~~] to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems***, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360***.

Section 23. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by KRS 78.540(2). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).

(a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(b) For noncertified employees of school boards, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of days worked, the rate of pay, and the hours in a work day for each employee ***monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later then twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars ($1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars ($250) for each additional thirty (30) day period the information is reported late***.

1. If the employee works fewer than the number of contracted days, the employee shall receive service credit determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.

2. If the employee works fewer than the number of contracted days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.

3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state Department of Personnel for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

Section 24. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick-leave for each retiring employee.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees.

(3) ***(a)*** Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member ***or employer*** pays to the retirement system the value of the additional service credit based on the formula adopted by the board.

(b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.

(c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.

(4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill the employer accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) As an alternative to subsections (1), (3), and (4) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees shall, at the time of termination, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the ***employee's final compensation***[~~annual salary of the final year of service~~], if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment. The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation.

Section 25. KRS 78.625 is amended to read as follows:

(1) The agency reporting official of the county shall, by the tenth day of each month, forward to the system an amount equal to the aggregate amount of the employees' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

(2) The agency reporting official or some other person designated by the county shall forward a record of all contributions to the system on the forms the board prescribes.

(3) (a) If the agency reporting official fails to forward all contributions within twenty (20) days of the tenth day of the month following the period being reported, interest at the ***actuarial*** rate ***adopted by the board***[~~of eight percent (8%) per year~~] compounded annually on the delinquent contributions, but not less than one hundred dollars

($100), shall be added to the amount due the system.

(b) Delinquent contributions, with interest at the rate ***adopted by the board***[~~of eight percent (8%) per year~~] compounded annually, ***or penalties*** may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.

(4) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions have been made.

Section 26. KRS 61.555 is amended to read as follows:

(1) Any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

(8) Any member of the Kentucky Employees Retirement System age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any member of the Kentucky Employees Retirement System or the State Police Retirement System who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the

National Guard or the military reserves of the United States, by paying the retirement system the full actuarial cost as determined by the system. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

Section 27. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service for which the member is receiving credit. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) month of service in the reserves or the National Guard. The member shall pay the full actuarial cost of the service in the military reserves or the National Guard. Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 28. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and KRS 78.520 to 78.852 and who is reemployed in any position except as an independent contractor by a participating agency shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and KRS 78.520 to 78.852 on the compensation paid during reemployment except where monthly payments were not suspended as provided in

subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691. If the member had selected the retirement allowance payable for ten (10) years certain under KRS 16.576(4) upon his initial retirement and is reemployed within the same system from which he retired in a nonhazardous position, upon termination the member shall receive a retirement allowance from his nonhazardous service payable for the number of months remaining under his hazardous benefit;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

Representative Long moved that the House concur in Senate Committee Substitute to **HB 234**. Agreed.

Representative Long moved that **HB 234**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 12, 1998 roll call on **HB 234** - Appendix.) **HB 234**, by way

of Senate Committee Substitute, was passed and the title agreed to. Representative Long moved that the vote by which **HB 234**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 86, with Senate Committee Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 86** is as follows:

On page 1, line 22, by adding after "***basis***" the following: "***. The programs may also be blended with other programs as long as all criteria in this subsection are met***".

The Senate Floor Amendment No. 3 to **HB 86** is as follows:

On page 1, line 8, after "***programs***", by adding "***. The Department for Adult Education and Literacy shall annually report to the State Board for Adult and Technical Education, and the Legislative Research Commission for each grantee, the total funds expended, the number of parents and children served, the number of participants receiving public assistance at the time they enter the program, and the number of participants who have been removed from public assistance because of participation in the program***".

Representative Curd moved that the House concur in Senate Committee Amendment No. 1 to **HB 86**. Agreed.

Representative Curd moved that the House concur in Senate Floor Amendment No. 3 to **HB 86**. Agreed.

Representative Curd moved that **HB 86**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See March 12, 1998 roll call on **HB 86** - Appendix.) **HB 86**, as amended by the Senate, was passed and the title agreed to. Representative Curd moved that the vote by which **HB 86**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 263, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 263** is as follows:

HB 263, AN ACT relating to charitable gaming and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 238.505 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Division" means the Division of Charitable Gaming within the Justice Cabinet;

(2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;

(3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;

(4) "Bingo" means a specific game of chance in which participants use cards or paper sheets divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;

(5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs;

(6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;

(7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;

(8) "Charity fundraising event" means a fundraising activity of limited duration at which games of chance approved by the division are conducted, and examples of which include fairs, festivals, carnivals,[~~ and~~] bazaars***, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding***;

(9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or

supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:

(a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and

(b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;

(10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include a resident printer who prints raffle tickets at the request of a licensed charitable organization;

(11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available[~~ for financial consideration~~] to two (2) or more licensed charitable organizations ***during a one (1) year period*** for the conduct of charitable gaming;

(12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;

(13) "Adjusted gross receipts" means gross receipts less all cash prizes ***and***[~~or~~] the ***amount paid for***[~~cash value of~~] merchandise prizes ***purchased***;

(14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;

(15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

(16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;

(17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house;[~~ wagering on prerecorded horse races, KRS Chapter 230 notwithstanding;~~] and any other game of chance as identified, defined, and approved by administrative regulation of the division;[~~ and~~]

(18) ***"Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;***

(19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played***, including bingo held at a charity fundraising event;***

(20) "Immediate family" means:

(a) Spouse and parents-in-law;

(b) Parents and grandparents;

(c) Children and their spouses; and

(d) Siblings and their spouses; and

(21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility.

Section 2. KRS 238.515 is amended to read as follows:

The division shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the division shall have the following powers and duties:

(1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;

(2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;

(3) Prescribing reasonable fees for licenses;

(4) Establishing standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for;

(5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the division shall ***have the authority to issue administrative subpoenas and***

summonses. The division shall also establish toll-free telephone service for receiving complaints and inquiries;

(6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;

(7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;

(8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the division; and

(9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter.

Section 3. KRS 238.520 is amended to read as follows:

(1) The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:

(a) The secretary of the Justice Cabinet or his designee;

(b) The Attorney General or his designee;

(c) One (1) representative from the Kentucky ***Commonwealth's Attorneys***[~~County Clerks'~~] Association;

(d) One (1) representative from the Kentucky Charitable Gaming Association;

(e) One (1) certified public accountant; and

(f) Four (4) members selected from the public at large.

The certified public accountant, the four (4) at-large members, and the representatives from the Kentucky ***Commonwealth's Attorneys***[~~County Clerks'~~] Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations shall be selected from a list of at least three (3) names submitted to the Governor by the respective association.

(2) Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms.

(3) The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the division and to the General Assembly to assist in establishing effective policy for the licensing and regulation of charitable gaming.

(4) The commission shall meet quarterly or as otherwise directed by the division. ***Five (5)***[~~Four (4)~~] members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

Section 4. KRS 238.525 is amended to read as follows:

(1)[~~The requirement for licenses imposed in KRS 238.530, 238.535, and 238.555 shall become effective September 16, 1994. From March 16, 1994, until September 16, 1994, any person who desires to engage in an activity that requires licensure may do so if the licensure requirements are met and the activity is conducted in accordance with the provisions of this chapter.~~

~~(2) Applications for licensure and copies of charitable gaming laws and administrative regulations shall be made available through the office of the county clerk in each county.~~

~~(3)~~] Licenses shall be issued by the division on an annual ***or biennial*** basis, except as otherwise permitted in KRS 238.530 and 238.545. A license ***term***[~~year~~] may be determined by the division in any manner it deems appropriate to facilitate efficient licensing. The division shall charge ***a***[~~an annual~~] renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.

(2)[~~(4)~~] The division may issue a temporary license to an applicant who has[~~ substantially~~] met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.

(3)[~~(5)~~] An applicant for any license to be issued under ***Section 5 and Section 12 of*** this ***Act***[~~chapter~~] shall be subjected to a state and national criminal history background check by the division, with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. ***An applicant for any license to be issued under Section 6 of this Act shall be subjected to a state criminal history background check and may, if deemed reasonably necessary, be subjected to a national criminal history background check by the division with the assistance of the Kentucky State Police and the Federal Bureau of Investigation.*** The criminal history background check shall apply to the chief executive officer and the chief financial officer or director of an applicant[~~ organization~~]; any employee or member of an applicant[~~ organization~~] who has been designated as chairperson of the charitable gaming activity; the ***applicant itself***[~~charitable organization or business~~]; and any individual with a ten percent (10%) or more financial interest in the ***applicant***[~~business~~]. The division shall require the fingerprinting of all applicants ***for licensure under Section 5 and Section 12 of this Act and may require, if deemed reasonably necessary, the fingerprints of all applicants for licensure under Section 6 of this Act,*** who are natural persons in connection with the national criminal history background check to assure the identity of the applicant or applicants. The division may charge a reasonable fee not to exceed the actual cost of fingerprinting and records searching.

(4)[~~(6)~~] No applicant shall be licensed if an individual associated with the applicant in a capacity listed in subsection (5) of this section or the applicant ***itself***[~~organization~~] has been convicted of a felony, gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995(7), or any two (2) misdemeanor crimes in federal court or the courts of any state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B within ten (10) years preceding the application for licensure.

(5)[~~(7)~~] No applicant shall be licensed unless all applicants required to be fingerprinted under the provision of subsection (5) of this section have been fingerprinted. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for the national criminal history background check. The division may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. 92-544.

(6)[~~(8)~~] If a change occurs in any information submitted during the license application process, the applicant or licensee shall notify the division in writing within thirty (30) days of the date the change occurred.

Section 5. KRS 238.530 is amended to read as follows:

(1) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies or equipment unless the person is licensed by the division as a distributor. The division shall charge a license fee not to exceed one thousand dollars ($1,000).

(2) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies and equipment unless the person is licensed by the division as a manufacturer. The division shall charge a license fee not to exceed five hundred dollars ($500).

(3) No person who is licensed as a charitable organization***, and no owner, officer, employee, or member of the immediate family of an owner, officer, or employee of a licensed***[~~ or a~~] charitable gaming facility shall be eligible for licensure as a distributor or manufacturer. ***No affiliate of an owner, officer, or employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be licensed as a distributor or manufacturer.*** No person who is a licensed wholesaler or distributor of alcoholic beverages shall be licensed as a distributor or manufacturer. No person who is licensed as a distributor shall be licensed as a manufacturer, and no person licensed as a manufacturer shall be licensed as a distributor.

(4) An applicant for a license as a manufacturer or distributor shall apply for license on forms provided by the division and shall submit as part of the application process the following:

(a) The full name, address, date of birth, and Social Security number of the applicant;

(b) If the applicant is a corporation or other business entity, the names, addresses, dates of birth, and Social Security numbers of all officers and management personnel;

(c) The name, address, date of birth, and Social Security number of any individual who has ten percent (10%) or more financial interest in the applicant organization;

(d) Federal employer tax number;

(e) A sworn statement by the applicant or the appropriate officer that all information provided is true and correct and that the applicant agrees to comply with the applicable provisions of this chapter and all applicable administrative regulations promulgated thereunder;

(f) The name, address, and telephone number of a registered agent within the Commonwealth of Kentucky, if the applicant is not a resident; and

(g) Any other information the division deems appropriate.

(5) Each licensed manufacturer and distributor shall maintain a complete set of records as may be required by the division to document all activities related to the sale, rental, lease, or furnishing of charitable gaming supplies and equipment in the Commonwealth of Kentucky. These records shall be available for inspection by the division at reasonable times, and all records shall be maintained for a minimum of three (3) years. The division may require a licensed manufacturer and distributor to report on its activity, with the content and frequency of these reports to be prescribed by administrative regulation promulgated by the division.

(6) A distributor who does not receive payment in ***accordance with the terms of its sales or lease agreement***[~~full~~] from a licensed charitable organization within thirty (30) days of the delivery of charitable gaming supplies and equipment shall

notify the division of the delinquency in writing in a form and manner prescribed by the division. A manufacturer who does not receive payment in full from a distributor within sixty (60) days of the delivery of charitable gaming supplies and equipment shall notify the division of the delinquency in writing in a form and manner prescribed by the division.

(7) A licensed manufacturer shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor in the Commonwealth of Kentucky.

(8) A licensed distributor shall not sell charitable gaming supplies and equipment to any person not licensed as a ***distributor or a*** charitable organization in the Commonwealth of Kentucky, unless the organization is exempted from licensure under the provisions of this chapter.

(9) A licensed distributor shall not purchase charitable gaming supplies and equipment from any person not licensed as a manufacturer or distributor in the Commonwealth of Kentucky.

(10) No officer, ***owner,*** employee, or contractee of a licensed distributor or licensed manufacturer ***or their affiliates and no member of the immediate family of an owner, officer, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates,*** shall, with respect to a licensed charitable organization:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization;[~~ or~~]

(g) Provide***, coordinate, or solicit the services of*** personnel or volunteers in any manner***;***

(h) Provide training or consulting on the conduct of charitable gaming, except in connection with the use of its own equipment or supplies;

(i) Store its charitable gaming equipment or supplies in or on the premises of a licensed charitable gaming facility; or

(j) Donate or give any prize to be awarded in the conduct of charitable gaming.

Section 6. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the division. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of ***fifteen***[~~five~~] thousand dollars ***($15,000)***[~~($5,000)~~] per year;

(b) A raffle or raffles for which the gross receipts do not exceed ***fifteen***[~~five~~] thousand dollars ***($15,000)***[~~($5,000)~~] per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed ***fifteen***[~~five~~] thousand dollars ***($15,000)***[~~($5,000)~~] per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed fifteen thousand dollars ($15,000).

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the division in writing, on a form issued by the division, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter, except:

(a) Payment of the fee imposed under the provisions of KRS 238.570; and

(b) The reporting requirements imposed under the provisions of KRS 238.550(2), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the division; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the division shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the division determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same

manner as regular charitable gaming licenses.

(6) If the division determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities***, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request***.

(8) In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030(1), as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure;

(c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the division, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "accomplishing its charitable purposes" means relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3); and

(d) Have maintained an office or place of business~~[or operation]~~, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. ***The office or place of business shall be a separate and distinct address and location from that of any other licensee of the division; except that up to three(3) licensed charitable organizations may have the same address if they legitimately share office space.*** For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. ***Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fund raising event.***

(9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;[~~ and~~]

(k) ***An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the division; and***

(l) Any other information the division deems appropriate.

(10) The division may issue a[~~ limited~~] license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(11) The division shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

[~~(12) In order to continue to be qualified for licensure, a charitable organization shall continuously meet the requirements set forth in KRS 238.550(3) and (4). If a charitable organization is unable to meet those requirements, the division shall revoke the charitable organization's license or deny its application for renewal licensure by administrative action as provided in KRS 238.560.~~]

SECTION 7. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

(1) The net receipts from charitable gaming retained by a charitable organization for the previous calendar year, provided the charitable organization was licensed at the start of the calendar year, shall be equal to or greater than forty percent (40%) of the adjusted gross receipts of the charitable organization for the same period. Any charitable organization which permits its license to expire or otherwise lapse shall still be subject to the retention requirement. All fees paid to the division during the calendar year shall be excluded from the calculation of percentage retained.

(2) The following actions shall be imposed on a licensed charitable organization that fails to retain the requisite percentage of adjusted gross receipts required in subsection (1) of this section. The calculation of percentages shall be rounded to the nearest tenth of a percent:

(a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-tenths percent (39.9%), the licensee shall be placed on probation for a period of one (1) year and shall be required to submit to the division an acceptable financial plan detailing corrective actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the probationary period;

(b) If the percentage retained is between thirty percent (30%) and thirty-four and nine-tenths percent (34.9%), the licensee shall have its license suspended for a period of one (1) year; and

(c) If the percentage retained falls below thirty percent (30%) or if the licensee fails to attain the forty percent (40%) threshold for a second consecutive time, the licensee shall have its license suspended for a period of two (2) years.

(3) Any licensee that has had its license suspended under the provisions of subsection (2)(b) or (c) of this section shall be required to submit to the division an acceptable financial plan as described in subsection (2)(a) of this section, upon applying for reinstatement of its license.

(4) Any licensee that has had its license revoked, has had its renewal application denied, or has had action initiated to revoke or deny its license for failure to meet the forty percent (40%) retention threshold prior to the effective date of this Act may petition the division for reconsideration of its action or proposed action. Upon petition for reconsideration, the division shall apply the standards contained in subsection (2) of this section and shall adjust the license status of the petitioner accordingly. The division shall give credit for the amount of time a license has been revoked in assessing penalties under subsection (2) of this section not to exceed the amount of time imposed under the new penalty.

Section 8. KRS 238.540 is amended to read as follows:

(1) Charitable gaming shall be conducted by a licensed charitable organization at only one (1) location ***and at the date and time*** which shall be stated on the license. A license holder shall notify the division ***at least thirty (30) days in advance*** of its intent to change ***its*** location***, date, or time*** and approval by the division shall be received by the licensee prior to the conduct of charitable gaming at a new location.

(2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.

(3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the division, law enforcement officials, and other interested officials.

(4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the

chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. Any effort or attempt to disguise any other type of compensation shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

(5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company***, service company,*** or consultant in managing or conducting ***any aspect of*** charitable gaming.

(6) A licensed charitable organization shall not purchase ***or lease*** charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.

(7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.

(8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number.

Section 9. KRS 238.545 is amended to read as follows:

(1) A licensed charitable organization shall be limited by the following:

(a) In the conduct of bingo, to two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week. No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period. No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) ***in fair market***[~~cash~~] value per twenty-four (24) hour period, including the value of door prizes. No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo. A charitable organization may permit persons under age eighteen (18) to play bingo for noncash prizes if they are accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed ten dollars ($10);

(b) Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming;

(c) Charity game tickets may be sold, with prior approval of the division:

1. At any authorized special charity fundraising event conducted by a licensed charitable organization ***at any off-site location***; or

2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; and

(d) An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the division, only at the address of the location designated on the license to conduct charitable gaming, and only during bingo sessions. The division shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers.

(2) No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in ***seal card*** games[~~ using seal cards~~]. Cumulative or carryover prizes in ***seal card*** games[~~ utilizing seal cards~~] shall not exceed two thousand four hundred dollars ($2,400). Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars ($50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement.[~~ If seal cards are used,~~] Any unclaimed money or prize shall return to the charitable organization. No charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the division. No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.

(3) Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win. All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle. Raffle tickets shall have a unique identifier for the ticket holder. Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket. All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

(4) No licensed charitable organization shall conduct a charity fundraising event ***or a***[~~ in which~~] special limited ***charity fundraising event***[~~charitable games are conducted,~~] unless they have a[~~ special limited~~] license ***for the respective event***

issued by the division. ***No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars ($100).*** Except for state, county,[~~ and~~] city fairs, ***and***[~~ a~~] special limited ***charity fundraising events, a charity fundraising event***[~~charitable games~~] license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall not be eligible for more than four (4) total ***charity fundraising event***[~~special limited charitable game~~] licenses per year***,*** ***including one (1) special limited charity fundraising event license***. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The division shall have broad authority to regulate the conduct of[~~ gaming authorized by a~~] special limited ***charity fundraising events in accordance with the provisions of Section 10 of this Act***[~~charitable games license issued under this subsection~~].

(5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

SECTION 10. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

(1) A licensed charitable organization shall be limited to two (2) special limited charity fundraising event licenses per year, and a special limited charity fundraising event shall be limited to one (1) session not to exceed six (6) hours. A special limited charity fundraising event shall be conducted only between the hours of 12 noon and 1 a.m.

(2) A special limited charity fundraising event may be held:

- ***(a) On or in the premises of a licensed charitable organization;***
- ***(b) In a licensed charitable gaming facility, subject to restrictions contained in subsection (7) of Section 12 of this Act; or***
- ***(c) At an unlicensed facility under the following conditions:***
  - ***1. An unlicensed facility shall host no more than one (1) special limited charity fundraising event per year;***
  - ***2. The facility shall be closed to the general public during the conduct of a special limited charity fundraising event or the event shall be held in a separate room or area not accessible to the general public;***
  - ***3. Equipment used in the conduct of a special limited charity fundraising event shall be removed from the premises within two (2) working days after the event; and***
  - ***4. The unlicensed facility shall be subject to requirements stipulated in subsection (3) of Section 12 of this Act.***

(3) No cash shall be used in playing special limited charity games at a special limited charity fundraising event. Games shall be played with chips, scrip, or imitation money which shall be purchased only through a central bank or cashier under the authority of the chairperson designated by the licensed charitable organization conducting the special limited charity fundraising event. No chips, scrip, or imitation money shall be sold at a gaming table or by a dealer.

(4) Chips, scrip, or imitation money may be redeemed for cash or prizes. Prizes to be offered and their fair market values shall be displayed or listed in a conspicuous location within the gaming area. Prizes shall be redeemed directly or through an auction process within twenty-four (24) hours after the conclusion of the event.

Section 11. KRS 238.550 is amended to read as follows:

(1) All ***adjusted*** gross receipts from charitable gaming shall be handled only by ***chairpersons***[~~bona fide volunteers~~], officers, or employees of the licensed charitable organization. All adjusted gross receipts shall be deposited ***within two (2) business days*** into a checking account devoted exclusively to charitable gaming. ***All payments for charitable gaming expenses, prizes purchased, and any charitable donations from charitable gaming receipts shall be made from this checking account and any payments or donations***[~~Payment for legitimate expenses~~] shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. The division may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.

(2) Accurate records and books shall be maintained by each licensed charitable organization for a period of three (3) years. Division staff shall have access to these records at reasonable times. All licensed charitable organizations shall be required to submit reports to the division at least quarterly. These reports shall include, but shall not be limited to, the following information:

- (a) All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;
- (b) The amounts or values of all prizes paid out during the reporting period***, including a listing of all prizes donated, the names of donors, and the fair market value of the donated prizes***;

(c) The names and addresses of all persons who are winners of prizes of six hundred dollars ($600) or more;

(d) All expenses paid and the names and addresses of all persons to whom expenses were paid;

(e) All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and

(f) Any other information the division deems appropriate.

(3) No licensed charitable organization shall incur expenses, except as provided in this ***chapter***[~~subsection~~]. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following expenses:

(a) Charitable gaming supplies and equipment;

(b) Rent;

(c) Utilities;

(d) Insurance;

(e) Advertising;

(f) Janitorial services;

(g) Bookkeeping and accounting services;

(h) Security services;

(i) Membership dues for its participation in any charitable gaming trade organization; and

(j) Any other expenses the division may determine by administrative regulation to be legitimate.

[~~(4) At least forty percent (40%) of the adjusted gross receipts resulting from the conduct of charitable gaming during each two (2) consecutive calendar quarters shall be retained by the charitable organization and used exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax exempt status or consistent with its status as a common school, as an institution of higher education, or as a state college or university. No net receipts shall inure to the private benefit or financial gain of any individual.~~]

Section 12. KRS 238.555 is amended to read as follows:

(1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter. The division shall charge a license fee not to exceed two thousand five hundred dollars ($2,500). ***Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of sessions which the facility holds per week or other applicable factors or combination of factors.*** Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.

(2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:

(a) The address of the facility;

(b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;

(c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;

(d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;

(e) A copy of the lease agreement used by the applicant; and

(f) Any other information the division deems appropriate.

(3) No ***owner,*** officer, employee, or contractee of a licensed charitable gaming facility ***or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate*** shall, concerning a lessee:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization;[~~ or~~]

(g) Provide***, coordinate, or solicit the services of*** personnel or volunteers in any manner***;***

(h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming

supplies; or

(i) Donate or give any prize to be awarded in the conduct of charitable gaming.

(4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. ***The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease***[~~The lease shall specifically state the amount of rent to be charged and the goods and services to be provided, including concessions, if applicable~~]. The amount of rent***, goods, and services*** charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The division by administrative regulation may establish standards for the determination of prevailing market values. A copy of each signed lease agreement shall be filed with the division. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.

(5) The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:

(a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in a city of the first class, in a city of the second class, in an urban-county or charter county government, or in a county containing a city of the first class or second class;

(b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city of the third class, fourth class, fifth class, or sixth class, or in a county that does not contain a city of the first class or second class.

(6) A licensed charitable gaming facility shall report at least quarterly to the division and shall provide any information concerning its operation that the division may require.

(7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.

(8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license ***number*** of the charitable organization that is conducting charitable gaming activities in the facility.

(9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the division, law enforcement officials, and other interested officials.

SECTION 13. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

All peace officers, on being informed or having reason to believe that charitable gaming not authorized under this chapter is taking place or is about to take place, shall suppress and prevent it. For this purpose, any peace officer may enter any place where any unlicensed charitable gaming is being conducted or about to be conducted and may arrest without a warrant any person who does not submit satisfactory proof that he or she possesses the necessary license required by this chapter.

Section 14. KRS 238.570 is amended to read as follows:

(1) A fee is imposed on charitable gaming in the amount of ***four-tenths***[~~one half~~] of one percent ***(0.4%)***[~~(0.5%)~~] of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. Each licensed charitable organization shall remit to the division all moneys due on a quarterly basis.

(2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the Justice Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the division shall be deposited in this account. Moneys in this account shall be expended by the division only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the division shall assess the amount of funds raised by all fees levied in this chapter and shall make recommendations to the Legislative Research Commission concerning legislative amendments to adjust fee rates as indicated by the assessment.

(3) If the provision of subsection (1) of this section that imposes a fee of ***four-tenths***[~~one half~~] of one percent ***(0.4%)***[~~(0.5%)~~] of all gross receipts derived from all charitable gaming conducted by licensed charitable organizations is declared unconstitutional in a final decision of the highest appellate court of the Commonwealth of Kentucky, for the privilege of conducting charitable gaming in the Commonwealth of Kentucky, there is hereby levied upon the use, sale, rental, lease,

or distribution by sale or by gift of charitable gaming supplies and equipment a fee of ten percent (10%) of the value of all supplies and equipment used, sold, rented, leased, or otherwise distributed by a licensed distributor to any licensed charitable organization in the Commonwealth of Kentucky.

(a) Every distributor of charitable gaming supplies and equipment shall pay and report the fee levied pursuant to this subsection on or before the twentieth day of the calendar month next succeeding the month in which possession of the charitable gaming supplies and equipment is transferred from the distributor to the licensed charitable organization, in accordance with administrative regulations promulgated by the division.

(b) The division may require a bond from distributors in accordance with the administrative regulations promulgated by the division.

(4) If the alternative license fee schedule as provided in subsection (3) of this section is activated due to a final decision of the highest appellate court in the Commonwealth of Kentucky as provided in subsection (3) of this section, the distributor's license fee as provided in KRS 238.530(1) shall become inapplicable.

Section 15. Whereas the conduct of certain types of charity fundraising events at unlicensed facilities has created regulatory and law enforcement problems which need to be addressed in an expedient manner, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 263** is as follows:

On page 21, line 13, after the word "***including***" by deleting the word "***one (1)***" and inserting in lieu thereof the word "***two (2)***"; and

On page 21, line 13, after the word "***event***" by deleting the word "***license***" and inserting in lieu thereof the word "***licenses***".

The Senate Floor Amendment No. 8 to the Committee Substitute to **HB 263** is as follows:

On page 16, line 11, after the word "***year***" by inserting "***and provided the charitable organization is not covered under subsection (5) of this section***"; and

On page 17 after line 19, by adding the following:

"***(5) Any charitable organization that conducts charitable gaming on premises that are owned or leased by the organization and occupied by the organization on a year-round basis in the pursuit of its charitable purpose, shall retain net receipts that are equal to or greater than twenty-five percent (25%) of its gross receipts for the applicable calendar year. A charitable organization that is covered under this subsection that does not meet the requisite retention threshold, shall be subject to the penalty prescribed in subsection (2) of this section.***".

Representative Coleman moved that the House concur in Senate Committee Substitute to **HB 263**. Agreed.

Representative Coleman moved that the House concur in Senate Floor Amendment No. 1 to the Senate Committee Substitute to **HB 263**. Agreed.

Representative Coleman moved that the House refuse to concur in Senate Floor Amendment No. 8 to the Senate Committee Substitute to **HB 263**. Agreed.

HB 433, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 433** is as follows:

On page 6, after line 3, by inserting:

"Section 2. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to twenty-five cents ($0.25) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;

(b) In making the determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales:

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;
2. Classified as "residential" by a municipally-owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;
3. Classified as "residential" by the governing body of a municipally-owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

(c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill;

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the seller and the seller maintains a file of the proof;

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale are not subject to the sales or use tax. The property shall be regarded as having been purchased for resale. For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.
2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
    a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.
    b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.
    c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured.
3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.170;~~[and]~~

(12) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority***; and***

(13) Gross receipts from the sale of water used in the raising of equine as a business.".

Representative R. Adams moved that the House concur in Senate Floor Amendment No. 1 to **HB 433**. Agreed.

Representative R. Adams moved that **HB 433**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 1 (See March 12, 1998 roll call on **HB 433** - Appendix.) **HB 433**, as amended by the Senate, was passed and the title agreed to.

HB 311, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 311** is as follows:

On page 2, line 21, after the word "***goal***", By inserting "***, except that an applicant for a motor vehicle title shall not be required to provide his or her social security number as part of the application process***".

Representative Lee moved that the House concur in Senate Floor Amendment No. 1 to **HB 311**. Agreed.

Representative Lee moved that **HB 311**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See March 12, 1998 roll call on **HB 311** - Appendix.) **HB 311**, as amended by the Senate, was passed and the title agreed to. Representative Lee moved that the vote by which **HB 311**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **SB 60** withdrawn

Judiciary: **SB 352**

Agriculture and Small Business: **SB 304**

Report of Committees (Continued)

The Committee on Appropriations and Revenue reported **SB 13,** with House Committee Substitute attached thereto, and **SB 202** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The House Committee Substitute to **SB 13** is as follows:

AN ACT relating to volunteer fire department aid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county,[~~ or any~~] combination of cities and counties, ***state or public university, or county sheriff's office*** of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county or city government***, sheriff, or full-time deputy sheriff, including those providing court security, appointed pursuant to KRS 70.030, or state or public university police officer*** who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any ***sheriff who earns the maximum constitutional salary for his office, any special***[~~elected officer, sheriff,~~] deputy sheriff ***appointed pursuant to KRS 70.045, any*** constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

(4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 2. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer ***at least the***[~~a~~] minimum ***federal wage***[~~annual salary of four thousand three hundred fifty dollars ($4,350)~~];

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972***, and for all sheriffs appointed or elected on or after the effective date of this Act, and all deputy sheriffs, and state or public university police officers employed after the effective date of this Act***; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection***, and that all sheriffs serving in office on the effective date of this Act, all deputy sheriffs, and state or public university police, employed prior to the effective date of this Act shall be deemed to have met the requirements of this subsection***;

(4) Requires all police officers employed on or after July 1, 1972, ***and all sheriffs appointed or elected on or after the effective date of this Act, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998*** to successfully complete a basic training course of at least four hundred (400) hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council***. All sheriffs serving in office on the effective date of this Act, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998 shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than four hundred (400) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis***[~~; notwithstanding the authority of any department or administrative agency of state government to promulgate administrative regulations, no such department or administrative agency may, by administrative action, increase the minimum number of hours for a basic training course specified in this subsection~~];

(5) Requires all police officers, whether originally employed before or after July 1, 1972, ***and all sheriffs appointed or***

elected before, on, or after the effective date of this Act, and all deputy sheriffs, and state or public university police officers employed before, on, or after the effective date of this Act, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council;

(6) Requires compliance with all provisions of law applicable to local police, ***state or public university police, or sheriffs and their deputies,*** including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, ***state or public university police department, or sheriff's office,*** issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;.

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department***, state or public university police department, or sheriff's office*** actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department***, state or public university police department, or sheriff's office*** has substantially complied with subsections (6) and (7) of this section.

Section 3. KRS 15.460 is amended to read as follows:

(1) Beginning ***the effective date of this Act***~~[July 1, 1982]~~, an eligible local unit of government shall be entitled to receive annually a supplement of two thousand ***seven***~~[five]~~ hundred ***fifty*** dollars ***($2,750)***~~[($2,500)]~~ for each qualified police officer it employs***, and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000) for each qualified police officer it employs***, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

(3) (a) Each qualified sheriff who receives the maximum salary allowed by Section 246 of the Constitution of Kentucky and KRS 64.527 shall not receive the supplement.

(b) Each qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, exclusive of the expense allowance provided by KRS 70.170, shall upon final settlement with the fiscal court pursuant to KRS 134.310, receive that portion of the supplement that will not cause his compensation to exceed the maximum salary.

(c) Each qualified sheriff who seeks to participate in the fund shall forward a copy of the final settlement prepared pursuant to KRS 134.310 to the fund. The fund shall be reimbursed by the sheriff if an audit of the final settlement conducted pursuant to KRS 134.310 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.

(d) Each qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his own budget or from the county treasurer if the sheriff pools his fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his deputies for participation in the fund.

Section 4. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local government shall be entitled to receive annually a supplement of two thousand ***seven***~~[five]~~ hundred ***fifty*** dollars ***($2,750)***~~[($2,500)]~~ for each qualified professional firefighter it employs, ***and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000) for each qualified professional firefighter it employs,*** plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan, or to a plan qualified under Section 401(a) or Section 457 of the Internal Revenue Code of 1954 as amended, provided that the employer's contribution on the supplement to any of these plans shall not exceed that amount which is required of employers under the County Employees Retirement System pursuant to KRS Chapter 78, to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System

hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified professional firefighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified firefighter shall be in addition to his regular salary.

Section 5. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Human Resources, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot ***six***[~~five~~] thousand ***five hundred*** dollars ***($6,500)***[~~($5,000)~~] annually to each qualifying department***, and beginning on July 1 of 1999, the commission shall allot seven thousand five hundred dollars ($7,500) annually to each qualifying department***. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to ***purchase*** workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

Section 6. KRS 42.190 is amended to read as follows:

(1) On June 1, 1982, and then on or before the first day of each December, March, June, and September thereafter, the cabinet shall request in writing of the administrator of the Firefighters Foundation Program fund, which is established by KRS 95A.220, and of the administrator of the Law Enforcement Foundation Program fund, which is established by KRS 15.430, cost projections of their respective funds for the next quarter. Based on these projections, the cabinet shall determine the proportionate share of total insurance premium surcharge proceeds, prescribed in KRS 136.392, to accrue to each fund.

(2) On or before the first day of each quarter, the cabinet shall certify to the State Treasurer a distribution schedule describing the proportionate share of total insurance premium surcharge proceeds accruing to each fund during such quarter, and the State Treasurer shall pay into each fund's trust and agency account its proportionate share of all deposited tax moneys as set forth and in the manner as prescribed in KRS 136.392.

(3) Moneys deposited in the Firefighters Foundation Program fund's trust and agency account, and in the Law Enforcement Foundation Program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earnings from such investments shall accrue to, and be paid into the respective account from which such investments are made. All moneys remaining on deposit at the close of the state's fiscal year in the Firefighters Foundation Program fund's trust and agency account and all earnings from investments made from moneys in this account in excess of ***three***[~~one~~] million dollars ***($3,000,000)***[~~($1,000,000)~~], beginning with fiscal year 1994-95***, through June 30, 1999***, shall lapse, except that moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. All moneys remaining on deposit at the close of the state's fiscal year in the Law Enforcement Foundation Program fund's trust and agency account, and all earnings from investments made from moneys in this account, in excess of ***three***[~~one~~] million dollars ***($3,000,000)***[~~($1,000,000)~~], beginning with fiscal year 1994-95***, through June 30, 1999***, shall lapse. ***On and after July 1, 1999, moneys in these accounts shall not lapse.***

(4) The cabinet shall provide monthly financial reports to the administrator of the Firefighters Foundation Program fund and the administrator of the Law Enforcement Foundation Program fund respecting the amount of funds received and on deposit in each fund and the amount of earnings accruing to each fund from their investment.

Section 7. KRS 15.430 is amended to read as follows:

(1) There is hereby established the Law Enforcement Foundation Program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund.

(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, but, beginning with fiscal year 1994-95***, through June 30, 1999***, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. ***On and after July 1, 1999, moneys in this account shall not lapse.***

Section 8. KRS 95A.220 is amended to read as follows:

(1) There is established the "Firefighters Foundation Program Fund" consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. The fund may also receive any other funds, gifts or grants made available to the state for distribution to local governments and volunteer fire departments in accordance with the provisions of KRS 95A.200 to 95A.300 and KRS 95A.262.

(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account. Beginning with the fiscal year 1994-95***, through June 30, 1999***, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. ***On and after July 1, 1999, moneys in this account shall not lapse.***

Section 9. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the Revenue Cabinet, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the Revenue Cabinet all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law

Enforcement Foundation Program fund (KRS 15.430).

(b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the secretary of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the secretary of revenue to calculate an appropriate rate, the secretary for the Public Protection and Regulation Cabinet and the secretary for the Justice Cabinet shall certify to the secretary of revenue, no later than January 1, of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the secretary of revenue shall advise the commissioner of insurance of the new rate and the commissioner shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95***, through June 30, 1999***, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. ***On and after July 1, 1999, moneys in this account shall not lapse.*** Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95***, through June 30, 1999***, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. ***On and after July 1, 1999, moneys in this account shall not lapse.***

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

The Committee on Agriculture and Small Business reported **HB 329**, with Committee Substitute attached thereto, **HB 904**, with Committee Substitute attached thereto, **HJR 117**, and **SB 247** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 329, AN ACT relating to amusement rides and attractions and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 247.232 TO 247.236 IS CREATED TO READ AS FOLLOWS:

(1) Every person engaged in the for-profit business of providing temporary amusement devices and amusement attractions within the same county or within five (5) miles of any public fair or exposition that is sanctioned by the Department of Agriculture and operated by a public fair association, except for those operating at a public fair or exposition sanctioned by the Department of Agriculture in contiguous counties under the authority of a public fair association, or those operating under the authority of a religious, or educational organization, shall, before beginning operation, pay a license fee of two thousand dollars ($2,000) to the fiscal court of the county for each day of operation, within the time period of forty-five (45) days before and fifteen (15) days after the sanctioned public fair or exposition, if the temporary device or attraction is not operating in connection with the public fair or exposition.

(2) Collection and enforcement for payment of the license fee shall be the sole responsibility of the law enforcement entity acting on behalf of and at the direction of the fiscal court.

(3) Failure to pay the license fee upon request of the law enforcement entity shall result in the cessation of operation of the devices and attractions by the operator in the county within the timeframe and location requirements specified in this section.

Section 2. Whereas public fairs and expositions sanctioned by the Department of Agriculture will be conducted before the normal effective date of this legislation, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 329** is as follows:

AN ACT relating to amusement rides and attractions and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 247.232 TO 247.236 IS CREATED TO READ AS FOLLOWS:

(1) Every person engaged in the for-profit business of providing temporary amusement devices and amusement attractions within the same county or within five (5) miles of any public fair or exposition that is sanctioned by the Department of Agriculture and operated by a public fair association, except for those operating at a public fair or exposition sanctioned by the Department of Agriculture in contiguous counties under the authority of a public fair association, or those operating under the authority of a religious or educational organization, shall, before beginning operation, pay a license fee of two thousand dollars ($2,000) to the fiscal court of the county for each day of operation, within the time period of thirty (30) days before and seven (7) days after the sanctioned public fair or exposition, if the temporary device or attraction is not operating in connection with the public fair or exposition.

(2) Collection and enforcement for payment of the license fee shall be the sole responsibility of the law enforcement entity acting on behalf of and at the direction of the fiscal court.

(3) Failure to pay the license fee upon request of the law enforcement entity shall result in the cessation of operation of the devices and attractions by the operator in the county within the timeframe and location requirements specified in this section.

(4) (a) Nothing in this section shall apply to any nonprofit or charitable organization or any entity that has operated in the Commonwealth in the years of 1995, 1996, or 1997;

(b) Included in this exemption are clown acts, local festivals, and amusement or entertainment shows with six (6) or fewer kiddie rides.

Section 2. Whereas public fairs and expositions sanctioned by the Department of Agriculture will be conducted before the normal effective date of this legislation, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 904, AN ACT relating to fences.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 256 IS CREATED TO READ AS FOLLOWS:

(1) Any vehicle operator whose vehicle, vehicle load, or vehicle equipment damages a fence that could be holding livestock, or any person who damages a fence that could be holding livestock shall notify the fence owner or occupant of the property where the fence is located immediately. If the fence owner or occupant of the property cannot be found, the operator or person shall contact neighbors to identify the fence owner or occupant of the property. The operator or person shall describe the damage to the neighbor, obtain the name, address, and phone number of the fence owner or occupant of the property from the neighbor, and proceed to contact the fence owner or occupant of the property.

(2) The operator or person shall provide his name, address, and phone number to the fence owner or occupant of the property and to the neighbor if it was necessary to contact a neighbor.

(3) If a person fails to comply with subsections (1) or (2) of this section, he shall be fined not more than two hundred dollars ($200) for each violation.

(4) Nothing in this section shall relieve the operator or person of any responsibility under any other statute.

The Committee Substitute to **HB 904** is as follows:

AN ACT relating to fences.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 256 IS CREATED TO READ AS FOLLOWS:

(1) Any vehicle operator whose vehicle, vehicle load, or vehicle equipment damages a fence along a public road or highway that could be holding livestock, or any person who damages the fence shall notify the fence owner or occupant of the property where the fence is located immediately. If the fence owner or occupant of the property cannot be found, the operator or person shall contact neighbors to identify the fence owner or occupant of the

property. The operator or person shall describe the damage to the neighbor, obtain the name, address, and phone number of the fence owner or occupant of the property from the neighbor, and proceed to contact the fence owner or occupant of the property.

(2) The operator or person shall provide his name, address, and phone number to the fence owner or occupant of the property and to the neighbor if it was necessary to contact a neighbor.

(3) If a person fails to comply with subsection (1) or (2) of this section, he shall be fined not more than two hundred dollars ($200) for each violation.

(4) Nothing in this section shall relieve the operator or person of any responsibility under any other statute.

HJR 117, A JOINT RESOLUTION authorizing and directing a comprehensive study of the East Valley Goat Project in Morgan County, and making an appropriation therefor.

WHEREAS, the East Valley Goat Project is creating a working partnership between agriculture, education, and the community; and

WHEREAS, the project is having a positive effect on the children of Kentucky, is creating a real-life learning experience, and is increasing the economy in the rural areas of Kentucky; and

WHEREAS, the Boer goat project is providing an outstanding example of the accomplishments that can be obtained from a working relationship between agriculture, education, and community efforts;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Boer Goat Project Committee is created and is attached to the Department of Agriculture for administrative purposes. The membership of the committee shall consist of five (5) members as follows:

(1) The Commissioner of the Department of Agriculture or his or her designee;

(2) The Commissioner of the Department of Education or his or her designee;

(3) The Dean of the University of Kentucky College of Agriculture;

(4) The Chair of the Senate Agriculture and Natural Resources Committee; and

(5) The Chair of the House Agriculture and Small Business Committee.

Section 2. A majority of the members shall constitute a quorum and the Commissioner of the Department of Agriculture shall serve as chair.

Section 3. The committee shall meet quarterly and may meet more often upon the call of the chair or by a majority of the members. Except as provided in KRS 18A.200, members of the committee shall receive actual traveling expenses while attending meetings of the committee. Staff services for the committee shall be provided by the Department of Agriculture.

Section 4. The Department of Agriculture is directed to coordinate the efforts of the committee and all appropriate government agencies to assist in the development and expansion of the East Valley Goat Project and to develop criteria for creating other similar projects in school districts across the Commonwealth. The study shall begin not later than August 1, 1998, and the report and recommendations shall be submitted to the General Assembly no later than August 31, 1999.

Section 5. The Department of Agriculture may seek sources of funding for this project, including but not limited to grants, state and federal funds, private funds, and university funds.

Section 6. There is hereby appropriated from the general fund the sum of $20,000 to accomplish the study. Any amount remaining following the completion of the study shall revert to the general fund.

SB 247, AN ACT relating to tobacco growers' assistance and diversification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 138.130 TO 138.205 IS CREATED TO READ AS FOLLOWS:

The tax imposed under KRS 138.140 shall be collected by the Revenue Cabinet. A portion of the tax shall be distributed as directed in KRS 248.540 and 438.335. The remainder of the funds shall be deposited in the State Treasury in the Agricultural Diversification and Development Fund created and administered by the Agricultural Diversification and Development Council under Section 2 of this Act. All investment earnings of the fund shall be credited to the fund.

SECTION 2. A NEW SECTION OF KRS 138.130 TO 138.205 IS CREATED TO READ AS FOLLOWS:

The Agricultural Diversification and Development Council is created and shall have the following structure and duties:

(1) The Agricultural Diversification and Development Council shall consist of eleven (11) members who shall be ex officio or appointed by the Governor.

(a) The seven (7) members of the council appointed by the Governor shall include:

  1. A representative of the banking industry with experience in loans to farm operations;

  2. Four (4) farmers or persons with farm interests concerned with agricultural diversification and familiar with the tobacco program; and

  3. Two (2) additional appointees at the discretion of the Governor.

(b) The four (4) ex-officio members shall include the following persons or their representatives:

  1. Secretary of the Finance and Administration Cabinet;

  2. Commissioner of the Kentucky Department of Agriculture;

  3. Director of the Cooperative Extension Service; and

  4. Secretary of the Economic Development Cabinet;

(2) All members of the council shall be citizens eligible to vote in elections in this Commonwealth;

(3) Any vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term;

(4) Members of the council shall receive twenty-five dollars ($25) per day for each meeting attended and may be reimbursed for actual and necessary expenses incurred in the performance of official duties;

(5) The council shall select one (1) of its members as chairman, another as vice chairman, and another as secretary at its first regular meeting in the calendar year;

(6) Staff for the council shall include an executive director, staff members, and clerical services as determined by the council. The executive director shall be selected by the council;

(7) The council shall hold regular meetings at least once every three (3) months, the time and place of which shall be determined by the council. Six (6) members of the council shall constitute a quorum at any meeting. The council shall establish bylaws for the conduct of its meetings and shall keep an accurate record of all of its proceedings;

(8) The council shall advise the University of Kentucky and Kentucky State University Cooperative Extension Service, the University of Kentucky College of Agriculture, and the Kentucky Department of Agriculture on matters that relate to their respective roles under Sections 3, 5, and 6 of this Act;

(9) The council shall devise a system for prioritizing fund distributions and shall distribute funds according to Section 3 of this Act;

(10) The council shall coordinate efforts under Sections 2 to 4, 5, and 6 of this Act;

(11) The council shall prepare an annual report to the Governor and the General Assembly documenting the efforts undertaken under Sections 1 to 4, 5, and 6 of this Act;

(12) The funds earmarked for the council under Section 3 of this Act shall be used at the discretion of the council for staff services and expenses of the council. Any excess funds may be used for grants to agencies and individuals to carry out the purposes of Sections 2 to 4, 5, and 6 of this Act and the directives of the council or studies or other efforts to assist in carrying out the purposes of Sections 2 to 4, 5, and 6 of this Act;

(13) The council shall be attached to the Finance and Administration Cabinet for administrative purposes; and

(14) The council may promulgate regulations to carry out its duties specified in Sections 2, 3, and 4 of this Act.

SECTION 3. A NEW SECTION OF KRS 138.130 TO 138.205 IS CREATED TO READ AS FOLLOWS:

The moneys deposited in the Agricultural Diversification and Development fund under Section 1 of this Act shall be distributed or used by the Agricultural Diversification and Development Council as follows:

(1) The funds from four-tenths of one cent ($0.004) of the three cent ($0.03) per pack tax on cigarettes shall be provided to the University of Kentucky and Kentucky State University Extension Service programs and the University of Kentucky College of Agriculture to carry out the duties and responsibilities set forth in Section 5 of this Act;

(2) The funds from one and seven-tenths of one cent ($0.017) of the three cent ($0.03) per pack tax on cigarettes shall be provided for grants and loans to tobacco growers, tobacco dependent communities, and other entities to be determined by the Agricultural Diversification and Development Council, as set out in Section 4 of this Act;

(3) The funds from one-tenth of one cent ($0.001) of the three cent ($0.03) per pack tax on cigarettes shall be provided to the Kentucky Department of Agriculture for marketing, agricultural diversification, and development as set out in Section 6 of this Act;

(4) The funds from one-tenth of one cent ($0.001) of the three cent ($0.03) per pack tax on cigarettes shall be provided to the Kentucky Department for Alcoholic Beverage Control for its role in enforcing KRS 438.305 to 438.340 relating to prohibition of sale and distribution of tobacco products to those under the age of eighteen (18); and

(5) The funds from one-tenth of one cent ($0.001) of the three cent ($0.03) per pack tax on cigarettes shall be provided to the council for administration and other purposes as set out in Sections 2 and 4 of this Act.

SECTION 4. A NEW SECTION OF KRS 138.130 TO 138.205 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section:

(a) "Tobacco grower" means a quota holder or anyone who has legally grown tobacco in the state in two (2) of the last five (5) years; and

(b) "Tobacco-dependent community" means a community whose citizens derive a substantial portion of their income from tobacco-related enterprises, and who meet other criteria as determined in administrative regulations promulgated by the council.

(2) The funds, provided for grants and loans under Section 3 of this Act, to be distributed by the council shall be distributed in the form of grants, loans, or other arrangements set forth by administrative regulations promulgated by the council and the funds shall be distributed in the following manner:

(a) To tobacco growers to assist them in growing their tobacco crop more efficiently and profitably, using the latest technology and techniques;

(b) To tobacco growers to assist them in diversifying their operations and developing alternatives to tobacco;

(c) To tobacco-dependent communities to help stimulate and diversify their economies to offset possible reductions in tobacco quotas in the county; and

(d) Funds may be provided to organizations attempting to stimulate and diversify the local economies to offset possible reductions in the tobacco quota, and to assist tobacco growers who have lost quota or choose to diversify.

SECTION 5. A NEW SECTION OF KRS 164.605 TO 164.675 IS CREATED TO READ AS FOLLOWS:

The University of Kentucky and Kentucky State University Extension Service programs and the University of Kentucky College of Agriculture shall use the moneys provided under Section 3 of this Act to carry out the following duties and responsibilities:

(1) To assist tobacco growers to more efficiently and profitably produce their crops.

(2) To assist tobacco growers to diversify their operations if they so choose.

(3) To conduct research on tobacco and agricultural alternatives to tobacco production for Kentucky tobacco growers and aid in the implementation of the research.

(4) To develop alternative crop options and farm related enterprises to enhance, supplement, and substitute for tobacco production.

(5) To establish an education program and disseminate information to tobacco growers on tobacco and alternatives to tobacco production and the availability of state assistance to enhance and initiate these agricultural activities.

(6) To engage in other activities deemed necessary by the extension board, and the Agricultural Diversification and Development Council to promote tobacco and agricultural alternatives to tobacco, and to cooperate with other agencies in carrying out the purposes of Sections 2 to 4, 5, and 6 this Act.

(7) To prepare an annual report to the Governor, the General Assembly, and the Agricultural Diversification and Development Council to document progress in assisting tobacco production and in finding alternatives to tobacco production, and in disseminating information gained to Kentucky tobacco growers and communities.

SECTION 6. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

All funds provided to the Kentucky Department of Agriculture under Section 3 of this Act shall be used to perform the following activities:

(1) To promote tobacco and alternative corps and enterprises that can provide an enhanced income to tobacco growers or former growers;

(2) To assist in marketing crops and products that can provide alternative income to tobacco growers or former growers;

(3) To help establish the knowledge, understanding, and infrastructure necessary to produce and market tobacco and alternatives to tobacco; and

(4) To cooperate with other agencies in carrying out the goals set forth in this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The department shall receive the funds from one-tenth of one cent ($0.001) of the three cent ($0.03) per pack tax on cigarettes for its role in enforcing KRS 438.305 to 438.340 relating to prohibition of sale and distribution of tobacco products to those under the age of eighteen (18).

The Committee on Judiciary reported **HB 96**, **HB 181**, with Committee Substitute attached thereto, **HB 223**, with Committee Substitute attached thereto, **HB 297**, **HB 585**, **HB 707**, with Committee Substitute attached thereto, **HB 794**, with Committee Substitute attached thereto, **HB 803**, with Committee Substitute attached thereto, **HB 812**, with Committee Substitute attached thereto, **HB 818**, **HB 840**, with Committee Substitute attached thereto, **SB 36**, **SB 74**, and **SB 250** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 96, AN ACT relating to judicial retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.370 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.

(2) A member who has qualified for benefits pursuant to this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems, and he may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in the Kentucky Legislators' Retirement Plan. If the member elects to transfer his service credit, the system or plan from which the transfer is made shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the system or plan from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 21.400, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Judicial Retirement Plan, as determined by the actuary for the Judicial Retirement Plan. The member may pay by lump sum or by increments as set forth in KRS 6.515(2)(b), but an installment contract shall not extend for more than sixty (60) months. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 21.360(6).

(3) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan pursuant to subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years for his period of service as a city police judge for a city within the Commonwealth of Kentucky, if the service was performed prior to the first Monday in January, 1978, and if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records of the city for which the service was performed. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question pursuant to KRS 21.400. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 21.360(6).

(4) (a) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan pursuant to subsection (1) of this section or KRS 21.375, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service ***as an employee of the federal government, or for his period of service*** in the Armed Forces of the United States, if his discharge therefrom is honorable and ***if the former federal employee or member of the Armed Forces***[~~the~~] has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question pursuant to KRS 21.400. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan.

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his ***federal government or*** military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the ***federal government or*** military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 21.360(6).

(d) ***No former federal employee shall be eligible to purchase credit under this section if he is receiving a federal pension or if he is eligible for a federal pension in the future.*** No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

HB 181, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased.

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the following order:

(a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.

(b) If the deceased leaves a widow and children or a husband and children, then one-half (1/2) to the widow or husband and the other one-half (1/2) to the children of the deceased.

(c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.

(d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one (1) moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased. ***However, if the deceased is a minor and, at the time of the minor's death, the mother or father has a child support arrearage for that minor that equals or exceeds the amount that would be owed after one (1) year of nonpayment, then the parent with the arrearage shall recover nothing.***

(e) If the deceased leaves no widow, husband, or child, and if both father and mother are dead, ***or one (1) is dead and the other has a child support arrearage described in paragraph (d) of this subsection, or both father and mother have child support arrearages described in paragraph (d) of this subsection,*** then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution.

Section 2. KRS 411.135 is amended to read as follows:

In a wrongful death action in which the decedent was a minor child, the surviving parent, or parents, may recover for loss of affection and companionship that would have been derived from such child during its minority, in addition to all other elements of the damage usually recoverable in a wrongful death action. ***However, if the deceased is a minor and, at the time of the minor's death, either parent has a child support arrearage for that minor that equals or exceeds the amount that would be owed after one (1) year of nonpayment, then the parent with the arrearage shall recover nothing.***

The Committee Substitute to **HB 181** is as follows:

AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.130 is amended to read as follows:

(1) Whenever the death of a person results from an injury inflicted by the negligence or wrongful act of another, damages may be recovered for the death from the person who caused it, or whose agent or servant caused it. If the act was willful or the negligence gross, punitive damages may be recovered. The action shall be prosecuted by the personal representative of the deceased.

(2) The amount recovered, less funeral expenses and the cost of administration and costs of recovery including attorney fees, not included in the recovery from the defendant, shall be for the benefit of and go to the kindred of the deceased in the following order:

- (a) If the deceased leaves a widow or husband, and no children or their descendants, then the whole to the widow or husband.
- (b) If the deceased leaves a widow and children or a husband and children, then one-half (1/2) to the widow or husband and the other one-half (1/2) to the children of the deceased.
- (c) If the deceased leaves a child or children, but no widow or husband, then the whole to the child or children.
- (d) If the deceased leaves no widow, husband or child, then the recovery shall pass to the mother and father of the deceased, one (1) moiety each, if both are living; if the mother is dead and the father is living, the whole thereof shall pass to the father; and if the father is dead and the mother living, the whole thereof shall go to the mother. In the event the deceased was an adopted person, "mother" and "father" shall mean the adoptive parents of the deceased. ***However, if the deceased is a minor and, at the time of the minor's death, the mother or father has abandoned the minor, the parent who abandoned the minor shall recover nothing, and the whole recovery shall pass to the other surviving parent.***
- (e) If the deceased leaves no widow, husband***,*** or child, and if both father and mother are dead, ***or one (1) is dead and the other has a child support arrearage described in paragraph (d) of this subsection, or both father and mother have child support arrearages described in paragraph (d) of this subsection,*** then the whole of the recovery shall become a part of the personal estate of the deceased, and after the payment of his debts the remainder, if any, shall pass to his kindred more remote than those above named, according to the law of descent and distribution.

As used in this subsection, "abandoned" means that a parent of a minor failed, without justifiable cause, to communicate with, care for, and provide for the maintenance or support of the minor, as required by law or judicial decree, for a period of at least one (1) year prior to the date of the death of the minor.

Section 2. KRS 411.135 is amended to read as follows:

(1) In a wrongful death action in which the decedent was a minor child, the surviving parent, or parents, may recover for loss of affection and companionship that would have been derived from such child during its minority, in addition to all other elements of the damage usually recoverable in a wrongful death action. ***However, if the deceased is a minor and, at the time of the minor's death, either parent has abandoned the minor, then the amount otherwise recoverable by the parent who abandoned the minor shall pass to the other surviving parent.***

(2) As used in this section, "abandoned" means that a parent of a minor failed, without justifiable cause, to communicate with, care for, and provide for the maintenance or support of the minor, as required by law or judicial decree, for a period of at least one (1) year prior to the date of the death of the minor.

HB 223, AN ACT relating to abatement of buildings and properties used for criminal purposes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 233A IS ESTABLISHED AND A NEW SECTION THEREOF CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Drug facility" means any building, erection, or other place used for the purpose of manufacture or trafficking in controlled substances in violation of KRS Chapter 218A but does not include a place where mere possession of controlled substances in violation of KRS Chapter 218A occurs. It includes the ground upon which the building stands and all improvements upon that ground.

(2) "Gang facility" means any building, erection, or other place used for the purpose of a violation of KRS 506.120. It includes the ground upon which the building stands and all improvements upon that land.

SECTION 2. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

Any person who erects, establishes, continues, maintains, owns, occupies, leases, or subleases a drug facility or gang facility shall be guilty of a nuisance, and the facility, the furniture, fixtures, instruments, and all other contents of the drug facility or gang facility are declared a nuisance, and shall be enjoined and abated as provided by this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

The Commonwealth's attorney or county attorney, or any citizen of the county in which the drug facility or gang facility is located, may maintain an action in equity in the name of the state, upon the relation of the Commonwealth's attorney, county attorney or citizen, to perpetually enjoin the drug facility or gang facility, the person conducting or maintaining it and the owner or agent of the building or ground upon which it is located. If a citizen brings an action under this chapter, he or she shall post a bond in the sum of one hundred dollars ($100) with the clerk of the court in which the action is filed. If the action to enjoin is granted then the bond shall be returned, and if the action to enjoin is withdrawn by the person bringing the action or is dismissed as frivolous, the bond shall be paid to the defendant.

SECTION 4. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

(1) If a person is convicted in any court of this state of a violation of KRS 506.120, the county attorney or prosecuting attorney of the court in which the conviction has occurred shall, or any citizen of the state may, institute injunction proceedings against that person in the Circuit Court to abate any gang house.

(2) If a person is convicted in any court of this state of a violation of KRS Chapter 218A relating to the manufacture or trafficking in a controlled substance, the county attorney or prosecuting attorney of the court in which the conviction has occurred shall, or any citizen of the state, may institute injunction proceedings against that person in the Circuit Court to abate any drug house. These proceedings shall not be available for convictions involving only possession of controlled substances.

(3) The judgment of conviction shall be warrant for the Circuit Court issuing an injunction against that person and the premises used as a gang house or as a drug house.

SECTION 5. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

Upon the presentation of a petition alleging that a drug facility or gang facility exists, the court may grant a temporary injunction without bond, if the existence of the drug facility or gang facility is made to appear to the satisfaction of the court by evidence in the form of affidavit, depositions, oral testimony or otherwise, as the relator may elect. Three (3) days' written notice of the application shall be given the defendant before the hearing. When a temporary injunction has been granted, it shall be binding on the defendant throughout the state, and any violation of its provisions shall be a contempt.

SECTION 6. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

The Commonwealth's attorney, county attorney, or other attorney representing the relator may, with the approval of the court, grant immunity from prosecution to any witness who testifies for the relator.

SECTION 7. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

If the complaint is filed by a citizen, it shall be dismissed only upon a sworn statement by the relator and his attorney, setting forth the reasons why the action should be dismissed. Dismissal shall be approved by the Commonwealth's or county attorney in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, it may direct the Commonwealth's or county attorney to prosecute the action to judgment. If an action is continued more than one (1) month, any citizen may be substituted for the relator and prosecute the action to judgment. If the action is brought by a citizen, and the court finds there was no reasonable ground for the action, the costs may be taxed to that citizen.

SECTION 8. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

No injunction shall issue against an owner, nor shall an order be entered requiring any premises to close or be kept closed, if the owner and his agent have in good faith attempted to prevent those premises from being used as a drug facility or gang facility.

SECTION 9. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

(1) If the existence of a drug facility or gang facility is established, an order of abatement shall be entered as a part of the judgment. That order shall direct the removal from the house all fixtures, furniture, instruments or other movable property used in conducting the drug house or gang house, the sale of them in the manner provided for the sale of chattels under execution, the effectual closing of the premises against their use for any purpose, and keeping them closed for a period of one (1) year, unless sooner released.

(2) The sheriff shall be allowed for sales under this section the same fees as allowed by KRS 64.090 for sales under execution. For all other services under this section the sheriff shall be allowed a reasonable fee by the court to be taxed as part of the costs in the action.

SECTION 10. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

Proceeds of the sale of the personal property, as provided in Section 9 of this Act, shall be applied in the payment of the costs of the action and abatement, and the balance, if any, shall be paid to the unit of government in which the property is located and shall be used for drug and alcohol education programs or gang prevention programs, or a combination thereof.

SECTION 11. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

If the owner, agent or lessee of premises against which an injunction has been issued, appears in court, pays all costs of the proceeding and files a bond, with surety approved by the clerk and qualified as required by KRS 454.185, in the full value of *the premises as ascertained by the court, conditioned that he or she will immediately abate the drug facility or gang facility and prevent it from being established or kept within a period of one (1) year, the court may, if satisfied of good faith, order the premises released to the owner, agent or lessee and the order of abatement canceled so far as it relates to the premises. If the bond is given and costs are paid before judgment and the order of abatement, the action shall be terminated as to those premises. The release of the premises under this section shall not release it from any other judgment, lien or liability, to which it may be subject.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

The costs of an action to abate a drug facility or gang facility shall constitute a lien upon the premises and the judgment shall provide for the enforcement of that lien, but any personal property seized under Section 9 of this Act shall be sold first and the proceeds applied to the payment of those costs before the realty is sold.

SECTION 13. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

Whenever a permanent injunction issues or when the case has been disposed of under Section 11 of this Act, the court shall allow to the attorney for the relator a reasonable fee, which shall be taxed as a part of the costs of the action.

SECTION 14. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

(1) In case of a violation of any injunction granted under this chapter, the court may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court an affidavit, setting out the alleged facts constituting the violation, upon which the court shall cause an order of arrest to issue. The trial may be had upon affidavit, but either party may at any stage of the proceedings demand the production and oral examination of the witnesses.

(2) If any person enters or uses premises directed to be closed as provided in Section 9 of this Act, that person shall be proceeded against as provided in subsection (1) of this section.

SECTION 15. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

The provisions of this chapter shall not be used in the event that real or personal property is forfeited to the Commonwealth pursuant to any other statute authorizing forfeiture.

SECTION 16. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

Any person found guilty of violating an injunction granted under this chapter, or of entering or using premises directed to be closed as provided in Section 9 of this Act, shall be fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) or be confined in the county jail not less than three (3) nor more than six (6) months, or both.

The Committee Substitute to **HB 223** is as follows:

AN ACT relating to abatement of buildings and properties used for criminal purposes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 233A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Drug facility" means any building, erection, or other place used for the purpose of manufacture or trafficking in controlled substances in violation of KRS Chapter 218A but does not include a place where mere possession of controlled substances in violation of KRS Chapter 218A occurs. It includes the ground upon which the building stands and all improvements upon that ground.

(2) "Gang facility" means any building, erection, or other place used for the purpose of a violation of KRS 506.120. It includes the ground upon which the building stands and all improvements upon that land.

SECTION 2. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

Any person who erects, establishes, continues, maintains, owns, occupies, leases, or subleases a drug facility or gang facility shall be guilty of a nuisance, and the facility, the furniture, fixtures, instruments, and all other contents of the drug facility or gang facility are declared a nuisance, and shall be enjoined and abated as provided by this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth's attorney, county attorney, or any citizen of the county in which the drug facility or gang facility is located may take action, under the provisions of this chapter, against the drug facility or gang facility.

(2) The Commonwealth's attorney, county attorney, or citizen shall first provide written notice to the person conducting or maintaining the drug facility or gang facility and the owner or agent of the building or ground upon which it is located. The notice shall identify the drug facility or gang facility and shall inform the parties that if they do not stop the conduct of the drug facility or gang facility within forty-five (45) days and continue the stoppage for a period of

one (1) year, then court action shall be taken to stop the conduct.

(3) If the conduct has not been stopped within forty-five (45) days after receipt of the notice and the stoppage continued for a period of one (1) year, then during that year the Commonwealth's attorney, county attorney, or citizen may maintain an action in equity in the name of the state to perpetually enjoin the drug facility or gang facility, the person conducting or maintaining it, and the owner or agent of the building or ground upon which it is located.

(4) If a citizen brings an action under this chapter, the citizen shall post a bond in the sum of one hundred dollars ($100) with the clerk of the court in which the action is filed. If the action to enjoin is granted, then the bond shall be returned, and if the action to enjoin is withdrawn by the person bringing the action or is dismissed as frivolous, the bond shall be paid to the defendant.

SECTION 4. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

(1) If a person is convicted in any court of this state of a violation of KRS 506.120, the county attorney or prosecuting attorney of the court in which the conviction has occurred shall, or any citizen of the state may, institute injunction proceedings against that person in the Circuit Court to abate any gang house.

(2) If a person is convicted in any court of this state of a violation of KRS Chapter 218A relating to the manufacture or trafficking in a controlled substance, the county attorney or prosecuting attorney of the court in which the conviction has occurred shall, or any citizen of the state, may institute injunction proceedings against that person in the Circuit Court to abate any drug house. These proceedings shall not be available for convictions involving only possession of controlled substances.

(3) The judgment of conviction shall be warrant for the Circuit Court issuing an injunction against that person and the premises used as a gang house or as a drug house.

SECTION 5. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

Upon the presentation of a petition alleging that a drug facility or gang facility exists, the court may grant a temporary injunction without bond, if the existence of the drug facility or gang facility is made to appear to the satisfaction of the court by evidence in the form of affidavit, depositions, oral testimony or otherwise, as the relator may elect. Three (3) days' written notice of the application shall be given the defendant before the hearing. When a temporary injunction has been granted, it shall be binding on the defendant throughout the state, and any violation of its provisions shall be a contempt.

SECTION 6. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

The Commonwealth's attorney, county attorney, or other attorney representing the citizen may, with the approval of the court, grant immunity from prosecution to any witness who testifies for the relator.

SECTION 7. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

If the complaint is filed by a citizen, it shall be dismissed only upon a sworn statement by the citizen and his attorney, setting forth the reasons why the action should be dismissed. Dismissal shall be approved by the Commonwealth's or county attorney in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, it may direct the Commonwealth's or county attorney to prosecute the action to judgment. If an action is continued more than one (1) month, any citizen may be substituted for the first citizen and prosecute the action to judgment. If the action is brought by a citizen, and the court finds there was no reasonable ground for the action, the costs may be taxed to that citizen.

SECTION 8. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

No injunction shall issue against an owner, nor shall an order be entered requiring any premises to close or be kept closed, if the owner and his agent have in good faith attempted to prevent those premises from being used as a drug facility or gang facility.

SECTION 9. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

(1) If the existence of a drug facility or gang facility is established, an order of abatement shall be entered as a part of the judgment. That order shall direct the removal from the house all fixtures, furniture, instruments or other movable property used in conducting the drug house or gang house, the sale of them in the manner provided for the sale of chattels under execution, the effectual closing of the premises against their use for any purpose, and keeping them closed for a period of one (1) year, unless sooner released.

(2) The sheriff shall be allowed for sales under this section the same fees as allowed by KRS 64.090 for sales under execution. For all other services under this section the sheriff shall be allowed a reasonable fee by the court to be taxed as part of the costs in the action.

SECTION 10. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

Proceeds of the sale of the personal property, as provided in Section 9 of this Act, shall be applied in the payment of the costs of the action and abatement, and the balance, if any, shall be paid to the unit of government in which the property is located and shall be used for drug and alcohol education programs or gang prevention programs, or a combination thereof.

SECTION 11. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

If the owner, agent or lessee of premises against which an injunction has been issued, appears in court, pays all costs of the proceeding and files a bond, with surety approved by the clerk and qualified as required by KRS 454.185, in the full value of the premises as ascertained by the court, conditioned that he or she will immediately abate the drug facility or gang facility and prevent it from being established or kept within a period of one (1) year, the court may, if satisfied of good faith, order the premises released to the owner, agent or lessee and the order of abatement canceled so far as it relates to the premises. If the bond is given and costs are paid before judgment and the order of abatement, the action shall be terminated as to those premises. The release of the premises under this section shall not release it from any other judgment, lien or liability, to which it may be subject.

SECTION 12. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

The costs of an action to abate a drug facility or gang facility shall constitute a lien upon the premises and the judgment shall provide for the enforcement of that lien, but any personal property seized under Section 9 of this Act shall be sold first and the proceeds applied to the payment of those costs before the realty is sold.

SECTION 13. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

Whenever a permanent injunction issues or when the case has been disposed of under Section 11 of this Act, the court shall allow reasonable attorney's fees to the citizen, if applicable, which shall be taxed as a part of the costs of the action.

SECTION 14. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

The provisions of this chapter shall not be used in the event that real or personal property is forfeited to the Commonwealth pursuant to any other statute authorizing forfeiture.

SECTION 15. A NEW SECTION OF KRS CHAPTER 233A IS CREATED TO READ AS FOLLOWS:

Any person found guilty of violating an injunction granted under this chapter, or of entering or using premises directed to be closed as provided in Section 9 of this Act, shall be fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) or be confined in the county jail not less than three (3) nor more than six (6) months, or both.

HB 297, AN ACT relating to carrying concealed deadly weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers ***and special bailiffs***, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) Persons licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried.

(5) A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism.

(6) Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

HB 585, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 530 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of criminal child enticement when he by any means and without privilege to do so knowingly solicits, coaxes, entices, or lures any child under fourteen (14) years of age into any vehicle, whether or not the actor knows the age of the child, if both of the following apply:

(a) The actor does not have the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity; and

(b) The actor is not a peace officer, emergency medical technician, paramedic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of, any board of education, or the actor is any of those persons but, at the time he undertakes the activity, the actor is not acting within the scope of his lawful duties in that capacity.

(2) It is an affirmative defense to a charge under subsection (1) of this section that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.

(3) Criminal child enticement is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

Section 2. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has ***violated Section 1 of this Act or*** intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.

(b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

(3) For purposes of subsection (2) of this section, a "peace officer" is:

(a) A full-time sworn officer of the Kentucky State Police, a full-time sworn officer of the Kentucky Horse Park, a commissioned full-time state park ranger, a full-time state water patrol officer, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff; or

(b) A part-time paid law enforcement officer, or a special paid deputy, who has completed a Kentucky law enforcement council approved education and training program referred to in KRS 403.784.

(c) The provisions of this section relating to training shall not apply to a deputy sheriff who is subject to the training requirements specified in KRS 70.263(3).

(4) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(5) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

HB 707, AN ACT relating to civil rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.050 is amended to read as follows:

(1) It is an unlawful practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, an individual because of his race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability, or to classify or refer for employment an individual on the basis of disability, race, color, religion, national origin, sex, or age [~~between forty~~](40) and ***over***[~~seventy (70)~~].

(2) It is an unlawful practice for a licensing agency to refuse to license, or to bar or terminate from licensing an individual because of race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability.

Section 2. KRS 344.120 is amended to read as follows:

Except as otherwise provided in KRS 344.140 and 344.145, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement, as defined in KRS 344.130, on the ground of disability, race, color, ***sex,*** religion, or national origin.

Section 3. KRS 344.200 is amended to read as follows:

(1) An individual claiming to be aggrieved by an unlawful practice other than a discriminatory housing practice, a member of the commission, or the Attorney General may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (referred to as the respondent in this section, KRS 344.210, 344.230, and 344.240). The commission staff or a person designated pursuant to its administrative regulations shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five (5) days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.

(2) The commission or an individual designated pursuant to its administrative regulations shall determine~~[within thirty (30) days]~~ after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General, and any other public officers and persons that the commission deems proper.

(3) The complainant, within ten (10) days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon receiving a reconsideration application, the commission or an individual designated pursuant to administrative regulation shall make a new determination within ten (10) days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the Attorney General, and any other public officers and persons that the commission deems proper.

(4) If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3) of this section that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation, and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make any further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the Attorney General, and any other public officers and persons that the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(5) At the expiration of one (1) year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take whatever action it deems appropriate to assure compliance.

(6) At any time after a complaint is filed, the commission may file an action in the Circuit Court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant temporary relief or a restraining order as it deems just and proper.

(7) Nothing in this section shall apply to any discriminatory housing practice.

Section 4. KRS 344.210 is amended to read as follows:

(1) Within sixty (60) days after~~[a complaint other than a complaint alleging a discriminatory housing practice is filed, unless]~~ the commission ***determines that there is probable cause to believe that the respondent has engaged in an unlawful practice***~~[has issued an order dismissing the complaint or stating the terms of a conciliation agreement or within~~

~~thirty (30) days after an application for review is filed under subsection (3) of KRS 344.200]~~, the commission shall serve on the respondent by certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer the allegations of the complaint at a hearing held in accordance with this chapter and the provisions of KRS Chapter 13B. A copy of the notice shall be furnished to the complainant, the Attorney General, and any other public officers and persons that the commission deems proper.

(2) A member of the commission who filed the complaint or endeavored to eliminate the alleged unlawful practice by conference, conciliation, or persuasion shall not participate in the hearing or in the subsequent deliberation of the commission.

(3) The respondent shall file an answer with the commission by certified mail within twenty (20) days after receipt by the respondent of service under KRS 344.200. The commission or the complainant may amend a complaint and the respondent may amend an answer at any time prior to the issuance of final order pursuant to this section based on the complaint, but no final order shall be issued unless the respondent has had the opportunity of a hearing on the complaint or amendment on which the final order is based.

(4) An administrative hearing on a discriminatory housing practice shall be held pursuant to this section and KRS 344.640 and administrative regulations promulgated pursuant to this chapter.

The Committee Substitute to **HB 707** is as follows:

AN ACT relating to civil rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.050 is amended to read as follows:

(1) It is an unlawful practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, an individual because of his race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability, or to classify or refer for employment an individual on the basis of disability, race, color, religion, national origin, sex, or age ~~[between]~~forty (40) and ***over***~~[seventy (70)]~~.

(2) It is an unlawful practice for a licensing agency to refuse to license, or to bar or terminate from licensing an individual because of race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability.

Section 2. KRS 344.120 is amended to read as follows:

Except as otherwise provided in KRS 344.140 and 344.145, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort, or amusement, as defined in KRS 344.130, on the ground of disability, race, color, ***sex,*** religion, or national origin.

Section 3. KRS 344.200 is amended to read as follows:

(1) An individual claiming to be aggrieved by an unlawful practice other than a discriminatory housing practice, a member of the commission, or the Attorney General may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (referred to as the respondent in this section, KRS 344.210, 344.230, and 344.240). The commission staff or a person designated pursuant to its administrative regulations shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five (5) days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.

(2) The commission or an individual designated pursuant to its administrative regulations shall determine within ***two hundred forty (240)*** ~~[thirty (30)]~~ days after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General, and any other public officers and persons that the commission deems proper.

(3) The complainant, within ten (10) days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon receiving a reconsideration application, the commission or an individual designated pursuant to administrative regulation shall make a new determination within ten (10) days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the Attorney General, and any other public officers and persons that the commission deems proper.

(4) If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3)

of this section that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation, and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make any further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the Attorney General, and any other public officers and persons that the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(5) At the expiration of one (1) year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take whatever action it deems appropriate to assure compliance.

(6) At any time after a complaint is filed, the commission may file an action in the Circuit Court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant temporary relief or a restraining order as it deems just and proper.

(7) Nothing in this section shall apply to any discriminatory housing practice.

Section 4. KRS 344.210 is amended to read as follows:

(1) Within sixty (60) days after[~~ a complaint other than a complaint alleging a discriminatory housing practice is filed, unless~~] the commission ***determines that there is probable cause to believe that the respondent has engaged in an unlawful practice***[~~has issued an order dismissing the complaint or stating the terms of a conciliation agreement or within thirty (30) days after an application for review is filed under subsection (3) of KRS 344.200~~], the commission shall serve on the respondent by certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer the allegations of the complaint at a hearing held in accordance with this chapter and the provisions of KRS Chapter 13B. A copy of the notice shall be furnished to the complainant, the Attorney General, and any other public officers and persons that the commission deems proper.

(2) A member of the commission who filed the complaint or endeavored to eliminate the alleged unlawful practice by conference, conciliation, or persuasion shall not participate in the hearing or in the subsequent deliberation of the commission.

(3) The respondent shall file an answer with the commission by certified mail within twenty (20) days after receipt by the respondent of service under KRS 344.200. The commission or the complainant may amend a complaint and the respondent may amend an answer at any time prior to the issuance of final order pursuant to this section based on the complaint, but no final order shall be issued unless the respondent has had the opportunity of a hearing on the complaint or amendment on which the final order is based.

(4) An administrative hearing on a discriminatory housing practice shall be held pursuant to this section and KRS 344.640 and administrative regulations promulgated pursuant to this chapter.

HB 794, AN ACT relating to liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 376 IS CREATED TO READ AS FOLLOWS:

(1) Any statute relating to the filing of liens notwithstanding, no county clerk or other official to whom a lien is directed shall accept the document for filing or recording unless:

(a) The document states the statutory authority that permits the filing of a lien of that type or the filing of a lien for that purpose; or

(b) The person presenting a lien that is based on the judgment of a court tenders with the lien a copy of the judgment entered by the state, federal, or other court of competent jurisdiction; or

(c) The lien contains a signed statement by an attorney licensed to practice law in Kentucky that the lien was prepared by the attorney.

(2) Any lien filed in the office of a county clerk, except as otherwise provided in subsection (3) of this section, shall have a signed statement by the person filing the lien that the person against whom the lien has been filed has been given

written notice of the lien through the mails, postage prepaid.

(3) Any document purporting to give evidence of a lien, or a financing statement, that is provided for by KRS Chapter 355 is exempted from the requirements of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 376 IS CREATED TO READ AS FOLLOWS:

(1) The owner of real or personal property may bring an action in the District or Circuit Court in the county in which the lien has been filed to direct the official who recorded the lien to remove the lien or to place a notation that the lien is invalid in the book in which the lien has been recorded if it is shown to the satisfaction of the court that the lien is forged, groundless, contains a material misstatement, or is a false claim.

(2) A document purporting to create an interest in or a lien or encumbrance against real or personal property not authorized by statute, judgment of a court of competent jurisdiction, or other specific legal authority shall be presumed to be invalid. This presumption may be overcome by clear and convincing evidence.

(3) Unless written notice, sent by certified mail, return receipt requested to the person against whose property the lien is filed, is sent by the person filing the lien, no statute of limitations shall apply to the actions under this section.

(4) A person for whom a lien has been removed or invalidated by a court pursuant to this section shall be awarded compensatory and punitive damages together with the costs of the action and legal fees to be paid by the person filing or causing the filing of the lien. The court shall, if compensatory or punitive damages are sought, hold a hearing to determine the amount of each type of damages. In lieu of compensatory and punitive damages, the plaintiff may seek statutory damages of one thousand dollars ($1,000).

SECTION 3. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of filing an illegal lien when he files a document or lien that he should have known was forged, groundless, contained a material misstatement, or was a false claim. It shall be an affirmative defense that any material misstatement was not intentional.

(2) Filing an illegal lien is a Class D felony for the first offense, a Class C felony for any second offense, and a Class B felony for any subsequent offense. A sentence for violation of this section shall be ordered served consecutively to any other sentence received by the defendant.

The Committee Substitute to **HB** 794 is as follows:

AN ACT relating to liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 376 IS CREATED TO READ AS FOLLOWS:

(1) Any statute relating to the filing of liens notwithstanding, no county clerk or other official to whom a lien is directed shall accept the document for filing or recording unless:

  (a) The document states the statutory authority that permits the filing of a lien of that type or the filing of a lien for that purpose; or

  (b) The person presenting a lien that is based on the judgment of a court tenders with the lien a copy of the judgment entered by the state, federal, or other court of competent jurisdiction; or

  (c) The lien contains a signed statement by an attorney licensed to practice law in Kentucky that the lien was prepared by the attorney.

(2) Any lien filed in the office of a county clerk, except as otherwise provided in subsection (3) of this section, shall have a signed statement by the person filing the lien that the person against whom the lien has been filed has been given written notice of the lien through the mails, postage prepaid.

(3) Any document purporting to give evidence of a lien, or a financing statement, that is provided for by KRS Chapter 355 is exempted from the requirements of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 376 IS CREATED TO READ AS FOLLOWS:

(1) The owner of real or personal property may bring an action in the District or Circuit Court in the county in which the lien has been filed to direct the official who recorded the lien to remove the lien or to place a notation that the lien is invalid in the book in which the lien has been recorded if it is shown to the satisfaction of the court that the lien is forged, groundless, contains a material misstatement, or is a false claim.

(2) A document purporting to create an interest in or a lien or encumbrance against real or personal property not authorized by statute, judgment of a court of competent jurisdiction, or other specific legal authority shall be presumed to be invalid. This presumption may be overcome by clear and convincing evidence.

(3) Unless written notice, sent by certified mail, return receipt requested to the person against whose property the lien is

filed, is sent by the person filing the lien, no statute of limitations shall apply to the actions under this section.

(4) A person for whom a lien has been removed or invalidated by a court pursuant to this section shall be awarded compensatory and punitive damages together with the costs of the action and legal fees to be paid by the person filing or causing the filing of the lien. The court shall, if compensatory or punitive damages are sought, hold a hearing to determine the amount of each type of damages. In lieu of compensatory and punitive damages, the plaintiff may seek statutory damages of one thousand dollars ($1,000).

SECTION 3. A NEW SECTION OF KRS CHAPTER 434 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of filing an illegal lien when he files a document or lien that he knows was forged, groundless, contained a material misstatement, or was a false claim. It shall be an affirmative defense that any material misstatement was not intentional.

(2) Filing an illegal lien is a Class D felony for the first offense, a Class C felony for any second offense, and a Class B felony for any subsequent offense. A sentence for violation of this section shall be ordered served consecutively to any other sentence received by the defendant.

HB 803, AN ACT relating to involuntary hospitalization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.026 is amended to read as follows:

No person shall be involuntarily hospitalized unless such person is a mentally ill person:

(1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness;

(2) Who can reasonably benefit from ***care***[~~treatment~~]; and

(3) For whom hospitalization is the least restrictive alternative mode of treatment presently available.

If a person ceases to meet the criteria under this section for involuntary hospitalization, the person shall be discharged, unless there is not an acceptable discharge alternative that ensures the person's safety.

The Committee Substitute to **HB 803** is as follows:

AN ACT relating to involuntary hospitalization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.026 is amended to read as follows:

No person shall be involuntarily hospitalized unless such person is a mentally ill person:

(1) Who presents a danger or threat of danger to self, family or others as a result of the mental illness;

(2) Who can reasonably benefit from ***care***[~~treatment~~]; and

(3) For whom hospitalization is the least restrictive alternative mode of ***care***[~~treatment~~] presently available.

HB 812, AN ACT relating to persons under a disability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.510 is amended to read as follows:

As used in KRS 387.500 to 387.770 and 387.990:

(1) "Conservator" means an individual, agency, or corporation appointed by the court to manage the financial resources of a disabled person.

(2) "Limited conservator" means an individual, agency, or corporation appointed by the court to assist in managing the financial resources of a partially disabled person and whose powers and duties have been specifically enumerated by court order.

(3) "Guardian" means any individual, agency, or corporation appointed by the court to have full care, custody, and control of a disabled person and to manage his financial resources. ***A guardian may retain an attorney to assist the guardian with any of the guardian's duties. The attorney may be paid a reasonable fee from the ward's income. The court may designate by local rule whether it will require review and approval of attorney's fees.***

(4) "Limited guardian" means a guardian who possesses fewer than all of the legal powers and duties of a full guardian, and whose powers and duties have been specifically enumerated by court order.

(5) "Standby" guardian or conservator means a person or entity designated by the court to assume the powers and duties assigned to a limited guardian, guardian, limited conservator, or conservator upon his death, resignation, removal, or

incapacity.

(6) "Testamentary" guardian or conservator means an individual, agency, or corporation nominated in the will of a limited guardian, guardian, limited conservator, or conservator to succeed the testator in that capacity upon his death.

(7) "Developmental disability" means a severe, chronic disability of a person which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age twenty-two (22);

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three (3) or more of the following areas of major life activity: 1. self-care; 2. receptive and expressive language; 3. learning; 4. mobility; 5. self-direction; 6. capacity for independent living; and 7. economic self-sufficiency; and

(e) Reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

(8) "Disabled" means a legal, not a medical disability, and is measured by functional inabilities. It refers to any person fourteen (14) years of age or older who is:

(a) Unable to make informed decisions with respect to his personal affairs to such an extent that he lacks the capacity to provide for his physical health and safety, including but not limited to health care, food, shelter, clothing, or personal hygiene; or

(b) Unable to make informed decisions with respect to his financial resources to such an extent that he lacks the capacity to manage his property effectively by those actions necessary to obtain, administer, and dispose of both real and personal property.

Such inability shall be evidenced by ***relevant*** acts or occurrences~~[within six (6) months]~~ prior to the filing of the petition for guardianship or conservatorship and shall not be evidenced solely by isolated instances of negligence, improvidence, or other behavior.

(9) "Partially disabled" refers to an individual who lacks the capacity to manage some of his personal affairs and/or financial resources as provided in subsection (8) of this section, but who cannot be found to be fully disabled as provided therein.

(10) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors.

(11) "Interdisciplinary evaluation report" means a report of an evaluation of a respondent performed pursuant to the provisions of KRS 387.540 to determine whether he is partially disabled or disabled as defined herein.

(12) "Interested person or entity" means an adult relative or friend of the respondent or ward, an official or representative of a public or private agency, corporation, or association concerned with that person's welfare, or any other person found suitable by the court.

(13) "Petitioner" means a person who institutes a proceeding under KRS 387.530.

(14) "Respondent" means an individual alleged to be a partially disabled or disabled person.

(15) "Ward" means a person for whom a limited guardian, guardian, limited conservator, or conservator has been appointed.

(16) "Committee" means a person appointed by the court prior to July 1, 1982, to have full care, custody, and control of a disabled person and his estate.

SECTION 2. A NEW SECTION OF KRS 387.500 TO 387.770 IS CREATED TO READ AS FOLLOWS:

If a court finds a person to be totally disabled, or partially disabled without the right to execute instruments, all instruments executed thereafter by that person shall be invalid. These instruments shall include, but not be limited to, wills and health care advance directives.

Section 3. KRS 387.540 is amended to read as follows:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report may be filed as a single and joint report of the interdisciplinary evaluation team, or it may otherwise be constituted by the separate reports filed by each individual of the team. ***Interdisciplinary reports filed with the court ten (10) days prior to hearing shall be admissible into evidence***~~[If the court and all parties to the proceeding and their attorneys agree to the admissibility of the report or reports, the report or reports shall be admitted into evidence and shall be considered by the jury]~~. The report shall be compiled by at least three (3) individuals, including a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a person licensed or certified as a social worker or an employee of the Cabinet for Human Resources who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall, when possible, be chosen from among employees of the

Cabinet for Human Resources residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010(12).

(4) The interdisciplinary evaluation report shall contain:

  (a) A description of the nature and extent of the respondent's disabilities, if any;

  (b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on ***relevant*** prior evaluations[~~ not more than three (3) months old,~~] except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

  (c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

  (d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

  (e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

  (f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

  (g) A determination whether alternatives to guardianship or conservatorship are available;

  (h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

  (i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

  (j) An opinion whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of harm;

  (k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

  (l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employee of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6) of this section, the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least ten (10) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employee of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employee of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence shall be admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for the evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined

by the court.

Section 4. KRS 387.610 is amended to read as follows:

Prior to the expiration of a term of guardianship or conservatorship, the limited guardian, guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for a renewal of his appointment for a period not to exceed five (5) years. The petition shall be accompanied by verified affidavits of a physician, or a psychologist licensed or certified under the provisions of KRS Chapter 319, or a person licensed or certified as a social worker or an employee of the Cabinet for Human Resources who meets the qualifications of KRS 335.080(1)(a), (b) and (c) or 335.090(1)(a), (b) and (c) supporting the need for the continuation of the guardianship or conservatorship. ***In the absence of a motion for a jury trial, there shall be a rebuttable presumption in favor of the renewal if supported by the affidavits.***

Section 5. KRS 387.620 is amended to read as follows:

(1) A partially disabled or disabled person, his limited guardian, guardian, limited conservator, or conservator, or any other interested person may petition the court for:

  (a) Termination or modification of an order of partial disability or disability;

  (b) Removal and/or replacement of a limited guardian, guardian, limited conservator or conservator; or

  (c) Renewal of the appointment of a limited guardian, guardian, limited conservator, or conservator.

(2) Petitions pursuant to this section shall set forth:

  (a) The name and address of the ward;

  (b) The name and address of the limited guardian, guardian, limited conservator, or conservator;

  (c) The name, address, and interest of the petitioner;

  (d) The names and addresses of the ward's next of kin, if known;

  (e) The name and address of the individual or facility, if any, having custody of the ward;

  (f) The relief requested; and

  (g) The facts and reasons supporting the request.

(3) A request under subsection (1) of this section, if made by the ward, may be communicated to the court by any means, including, but not limited to, oral communication or informal letter. If such a request is communicated by means other than a petition, the court shall appoint a suitable person who may, but need not be, an employee of the state, county, or court to prepare a written petition to be filed with the court within seven (7) days following the appointment.

(4) Within thirty (30) days after the filing of a petition, the court shall conduct a hearing at which the ward shall be entitled to counsel. The time for a hearing may be extended by the court, on motion of either party, for cause. Notice of the time and place of the hearing shall be given by the clerk of the court not less than fourteen (14) days prior to the hearing to both parties and all persons named in the petition. The petitioner shall, upon his motion, be entitled to have the motion for termination or modification determined by a jury.

(5) At the request of any party or on its own initiative, the court may order an interdisciplinary evaluation of the ward. The time period in which the court must review a petition may be extended for an appropriate period of time if an evaluation is ordered by the court. The interdisciplinary evaluation report may be filed as a single or joint report of the interdisciplinary evaluation team, or it may otherwise be constituted by the separate reports filed by each individual of the team. If the court and all parties to the proceeding and their attorneys agree to the admissibility of the report or reports, the report or reports shall be admitted into evidence and shall be considered by the court.

(6) Upon conclusion of a modification hearing without a jury, the court shall enter a written order setting forth the factual basis for its finding and may do any of the following:

  (a) Dismiss the petition;

  (b) Remove the guardian or conservator and dissolve the guardianship or conservatorship order;

  (c) Remove the limited guardian, guardian, limited conservator, or conservator and appoint a successor;

  (d) Modify the original guardianship or conservatorship order; or

  (e) Make any other order which the court deems appropriate and in the best interest of the ward.

(7) If the original order is dissolved and no further order is issued, the ward shall be relieved of all legal disabilities. The court shall enter an order and judgment restoring to the person all of the rights and privileges of a citizen. The clerk shall note the judgment or modification in the book in which notices of actions and encumbrances are indexed.

(8) The clerk of the court shall transmit a certified copy of the restoration judgment or modification to the originating court, if the judgment or modification is ordered by a court other than the court in which the original judgment was entered.

(9) A court shall hear a petition on behalf of a disabled or partially disabled person no more often than once every six (6) months, unless good cause is shown.

Section 6. KRS 387.700 is amended to read as follows:

(1) A conservator has all of the powers conferred herein and any additional powers conferred by law on trustees in this state. The conservator may take possession of the ward's real and personal property, and of all rents, incomes, and benefits therefrom, whether accruing before or after his appointment, and of the proceeds arising from the sale, mortgage, lease or exchange thereof. Subject to such possession the title of all such estate and to the increment and proceeds thereof shall be to the ward and not to the conservator. It is the duty of the conservator to protect and preserve the estate, to retain, sell and invest it as hereinafter provided, prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of the estate's assets, to account for it faithfully, to perform all other duties required of him by law, and, at the termination of the conservatorship, to deliver the assets of the ward to the persons lawfully entitled thereto.

(2) The conservator shall apply the money and property for the payments of debts, taxes, claims, charges and expenses of the conservatorship and for the support, care, maintenance and education of the ward or his ***family, if not in conflict with an order of the court or the ward's needs***[~~dependents~~].

(3) Any sale of realty of a ward shall be as provided in KRS Chapter 389A.

(4) Any lease of mineral rights, oil and gas rights, or sale of timber owned by a ward, or consolidation agreement, as defined by KRS 353.220, to be made on behalf of a ward by a conservator or guardian shall require the authorization and order of the District Court of the county where the conservator or guardian has qualified. Such order may be given only pursuant to written motion which contains the grounds for the motion and a description of the lease or agreement involved.

Section 7. KRS 387.710 is amended to read as follows:

(1) Within sixty (60) days of appointment, the limited conservator or conservator shall file with the court a verified inventory of all the property of the ward which has come to his possession or knowledge, including a statement of all encumbrances, liens, and other secured claims on any item, any claims against the estate of the ward, and any cause of action accruing to the ward. The limited conservator or conservator shall provide a copy thereof to the ward if he has sufficient mental capacity to understand it.

(2) (a) A limited conservator or conservator shall file with the court a verified report and financial account biennially within one hundred twenty (120) days after the anniversary date of his appointment. The report shall contain:

1. The present personal status of the ward whose estate is managed by the conservator;
2. The conservator's plan for preserving and maintaining the estate of which he has control or supervision;
3. The need for continuation or cessation of the conservatorship; and
4. The need for any alteration in the powers of the conservatorship.

(b) The biennial report shall specify the amount and type of real and personal property received by the conservator and remaining in his control or invested by him, the nature of such investment, and expenditures made during the preceding year. Upon request of the court, the conservator shall produce for examination any information or documentation which the court may consider relevant to the accounting of the financial and property transactions of the estate.

(c) ***The court may waive a formal accounting if the ward's monthly income is under seven hundred dollars ($700), or the ward is Medicaid-eligible***[~~If the ward has no real property and possesses personal property of fifteen hundred dollars ($1,500) or less for any year during the biennial report, the guardian, conservator, or limited conservator may file an informal biennial financial report attesting to the identity of the ward's financial account and its current balance. If the balance does not exceed fifteen hundred dollars ($1,500) for any year of the biennial report, the guardian, conservator, or limited conservator shall not be required to render to the court a detailed accounting of the expenditures from the fund, unless the court, on its own motion or that of any interested party or individual, deems it necessary to order the guardian, conservator, or limited conservator to provide a detailed biennial accounting, including the listing of all expenditures for that reporting period. For guardians filing an informal biennial financial report, the provisions of subsection (2)(a)2. of this section shall not apply~~].

(3) Upon the resignation, removal, or death of a limited conservator or conservator, or on the termination of the conservatorship, the limited conservator or conservator, or his personal representative, shall forthwith submit a final report and account to the court and to the former ward and to the successor limited conservator or conservator, or, if the ward is deceased, to his personal representative, and shall pay over the trust estate to the person entitled thereto. Upon approval of the report and account, the limited conservator or conservator shall be discharged and his surety, if any, released.

Section 8. KRS 387.330 is amended to read as follows:

(1) Any person of full age and sound mind may execute a verified petition for the voluntary appointment of a guardian or a conservator of that person's property upon the express condition that the petition shall be acted upon by the court only upon the occurrence of an event specified or the existence of a described condition of the mental or physical health of the petitioner, the occurrence of which event, or the existence of which condition, shall be established in the manner directed

in the petition. The petition, when filed, shall be accompanied by an affidavit from a licensed physician indicating that the person who signed the petition is now disabled as defined in KRS 387.510. The petition shall advise the proposed ward of a guardian's powers as provided in KRS 387.065 and conservator's powers as provided in KRS 387.137.

(2) The petition may nominate a person for appointment to serve as guardian or conservator, and may request that the appointment be made without bond, or with bond of a certain stated sum. The court in appointing the guardian or conservator shall appoint the individual nominated unless the court finds that person unfit or incompetent and shall give due regard to the other requests and recommendations contained in the petition.

(3) The petition may be deposited with the circuit clerk of the county in which the party resides, or with any person, firm, bank, or trust company selected by the petitioner.

(4) The petition may be revoked by the petitioner at any time before appointment of a guardian or conservator by the court, if the petitioner is of sound mind. Revocation shall be accomplished by the destruction of the petition by the petitioner, or by the execution of an acknowledged instrument of revocation. If the petition has been deposited with the clerk, the revocation may be deposited there.

(5) At any time after the deposit of the petition with the clerk, and before its revocation, it may be brought on for hearing by the filing of a verified statement to the effect that the occurrence of the event or the condition provided for in the petition has come to pass. If the petition has not been deposited with the clerk under the provisions of subsection (3) of this section, it may be brought on for hearing at any time by the filing of it and the verified statement with the circuit clerk of the county in which the person who executed the petition then resides.

(6) At the time the petition is filed, the court, without any notice, may appoint the guardian or conservator nominated in the petition or may set the petition for hearing on notice the court may prescribe.

(7) The powers and duties of a guardian or conservator shall be the same as those of a guardian or conservator appointed in response to any of the other petitions authorized in this chapter.

(8) At the time the petition for disability determination is filed, the court shall proceed with the determination by jury trial or emergency hearing.

The Committee Substitute to **HB 812** is as follows:

AN ACT relating to persons under a disability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.510 is amended to read as follows:

As used in KRS 387.500 to 387.770 and 387.990:

(1) "Conservator" means an individual, agency, or corporation appointed by the court to manage the financial resources of a disabled person.

(2) "Limited conservator" means an individual, agency, or corporation appointed by the court to assist in managing the financial resources of a partially disabled person and whose powers and duties have been specifically enumerated by court order.

(3) "Guardian" means any individual, agency, or corporation appointed by the court to have full care, custody, and control of a disabled person and to manage his financial resources. ***With the court's approval, a guardian may retain an attorney to assist the guardian. The attorney may be paid a reasonable fee from the ward's income. The court may designate by local rule whether it will require review and approval of attorney's fees.***

(4) "Limited guardian" means a guardian who possesses fewer than all of the legal powers and duties of a full guardian, and whose powers and duties have been specifically enumerated by court order.

(5) "Standby" guardian or conservator means a person or entity designated by the court to assume the powers and duties assigned to a limited guardian, guardian, limited conservator, or conservator upon his death, resignation, removal, or incapacity.

(6) "Testamentary" guardian or conservator means an individual, agency, or corporation nominated in the will of a limited guardian, guardian, limited conservator, or conservator to succeed the testator in that capacity upon his death.

(7) "Developmental disability" means a severe, chronic disability of a person which:

    (a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

    (b) Is manifested before the person attains age twenty-two (22);

    (c) Is likely to continue indefinitely;

    (d) Results in substantial functional limitations in three (3) or more of the following areas of major life activity: 1. self-care; 2. receptive and expressive language; 3. learning; 4. mobility; 5. self-direction; 6. capacity for independent living; and 7. economic self-sufficiency; and

(e) Reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

(8) "Disabled" means a legal, not a medical disability, and is measured by functional inabilities. It refers to any person fourteen (14) years of age or older who is:

(a) Unable to make informed decisions with respect to his personal affairs to such an extent that he lacks the capacity to provide for his physical health and safety, including but not limited to health care, food, shelter, clothing, or personal hygiene; or

(b) Unable to make informed decisions with respect to his financial resources to such an extent that he lacks the capacity to manage his property effectively by those actions necessary to obtain, administer, and dispose of both real and personal property.

Such inability shall be evidenced by ***relevant*** acts or occurrences[~~within six (6) months~~] prior to the filing of the petition for guardianship or conservatorship and shall not be evidenced solely by isolated instances of negligence, improvidence, or other behavior.

(9) "Partially disabled" refers to an individual who lacks the capacity to manage some of his personal affairs and/or financial resources as provided in subsection (8) of this section, but who cannot be found to be fully disabled as provided therein.

(10) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors.

(11) "Interdisciplinary evaluation report" means a report of an evaluation of a respondent performed pursuant to the provisions of KRS 387.540 to determine whether he is partially disabled or disabled as defined herein.

(12) "Interested person or entity" means an adult relative or friend of the respondent or ward, an official or representative of a public or private agency, corporation, or association concerned with that person's welfare, or any other person found suitable by the court.

(13) "Petitioner" means a person who institutes a proceeding under KRS 387.530.

(14) "Respondent" means an individual alleged to be a partially disabled or disabled person.

(15) "Ward" means a person for whom a limited guardian, guardian, limited conservator, or conservator has been appointed.

(16) "Committee" means a person appointed by the court prior to July 1, 1982, to have full care, custody, and control of a disabled person and his estate.

SECTION 2. A NEW SECTION OF KRS 387.500 TO 387.770 IS CREATED TO READ AS FOLLOWS:

If a court finds a person to be totally disabled, or partially disabled without the right to execute instruments, all instruments executed thereafter by that person shall be invalid. These instruments shall include, but not be limited to, wills and health care advance directives.

Section 3. KRS 387.540 is amended to read as follows:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report may be filed as a single and joint report of the interdisciplinary evaluation team, or it may otherwise be constituted by the separate reports filed by each individual of the team. ***Interdisciplinary reports filed with the court ten (10) days prior to hearing shall be admissible into evidence***[~~ If the court and all parties to the proceeding and their attorneys agree to the admissibility of the report or reports, the report or reports shall be admitted into evidence and shall be considered by the jury~~]. The report shall be compiled by at least three (3) individuals, including a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a person licensed or certified as a social worker or an employee of the Cabinet for Human Resources who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall, when possible, be chosen from among employees of the Cabinet for Human Resources residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010(12).

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on ***relevant*** prior evaluations~~[not more than three (3) months old,]~~ except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) An opinion whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employee of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6) of this section, the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least ten (10) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employee of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employee of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence shall be admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for the evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

Section 4. KRS 387.610 is amended to read as follows:

Prior to the expiration of a term of guardianship or conservatorship, the limited guardian, guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for a renewal of his appointment for a period not to exceed five (5) years. The petition shall be accompanied by verified affidavits of a physician, or a psychologist licensed or certified under the provisions of KRS Chapter 319, or a person licensed or certified as a social worker or an employee of the Cabinet for Human Resources who meets the qualifications of KRS 335.080(1)(a), (b) and (c) or 335.090(1)(a), (b) and (c) supporting the need for the continuation of the guardianship or conservatorship. ***In the absence of a motion for a jury trial, there shall be a rebuttable presumption in favor of the renewal if supported by the affidavits.***

Section 5. KRS 387.620 is amended to read as follows:

(1) A partially disabled or disabled person, his limited guardian, guardian, limited conservator, or conservator, or any other interested person may petition the court for:

- (a) Termination or modification of an order of partial disability or disability;
- (b) Removal and/or replacement of a limited guardian, guardian, limited conservator or conservator; or
- (c) Renewal of the appointment of a limited guardian, guardian, limited conservator, or conservator.

(2) Petitions pursuant to this section shall set forth:

- (a) The name and address of the ward;
- (b) The name and address of the limited guardian, guardian, limited conservator, or conservator;
- (c) The name, address, and interest of the petitioner;
- (d) The names and addresses of the ward's next of kin, if known;
- (e) The name and address of the individual or facility, if any, having custody of the ward;
- (f) The relief requested; and
- (g) The facts and reasons supporting the request.

(3) A request under subsection (1) of this section, if made by the ward, may be communicated to the court by any means, including, but not limited to, oral communication or informal letter. If such a request is communicated by means other than a petition, the court shall appoint a suitable person who may, but need not be, an employee of the state, county, or court to prepare a written petition to be filed with the court within seven (7) days following the appointment.

(4) Within thirty (30) days after the filing of a petition, the court shall conduct a hearing at which the ward shall be entitled to counsel. The time for a hearing may be extended by the court, on motion of either party, for cause. Notice of the time and place of the hearing shall be given by the clerk of the court not less than fourteen (14) days prior to the hearing to both parties and all persons named in the petition. The petitioner shall, upon his motion, be entitled to have the motion for termination or modification determined by a jury.

(5) At the request of any party or on its own initiative, the court may order an interdisciplinary evaluation of the ward. The time period in which the court must review a petition may be extended for an appropriate period of time if an evaluation is ordered by the court. The interdisciplinary evaluation report may be filed as a single or joint report of the interdisciplinary evaluation team, or it may otherwise be constituted by the separate reports filed by each individual of the team. If the court and all parties to the proceeding and their attorneys agree to the admissibility of the report or reports, the report or reports shall be admitted into evidence and shall be considered by the court.

(6) Upon conclusion of a modification hearing without a jury, the court shall enter a written order setting forth the factual basis for its finding and may do any of the following:

- (a) Dismiss the petition;
- (b) Remove the guardian or conservator and dissolve the guardianship or conservatorship order;
- (c) Remove the limited guardian, guardian, limited conservator, or conservator and appoint a successor;
- (d) Modify the original guardianship or conservatorship order; or
- (e) Make any other order which the court deems appropriate and in the best interest of the ward.

(7) If the original order is dissolved and no further order is issued, the ward shall be relieved of all legal disabilities. The court shall enter an order and judgment restoring to the person all of the rights and privileges of a citizen. The clerk shall note the judgment or modification in the book in which notices of actions and encumbrances are indexed.

(8) The clerk of the court shall transmit a certified copy of the restoration judgment or modification to the originating court, if the judgment or modification is ordered by a court other than the court in which the original judgment was entered.

(9) A court shall hear a petition on behalf of a disabled or partially disabled person no more often than once every six (6) months, unless good cause is shown.

Section 6. KRS 387.700 is amended to read as follows:

(1) A conservator has all of the powers conferred herein and any additional powers conferred by law on trustees in this state. The conservator may take possession of the ward's real and personal property, and of all rents, incomes, and benefits therefrom, whether accruing before or after his appointment, and of the proceeds arising from the sale, mortgage, lease or exchange thereof. Subject to such possession the title of all such estate and to the increment and proceeds thereof shall be to the ward and not to the conservator. It is the duty of the conservator to protect and preserve the estate, to retain, sell and invest it as hereinafter provided, prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of the estate's assets, to account for it faithfully, to perform all other duties required of him by law, and, at the termination of the conservatorship, to deliver the assets of the ward to the persons lawfully entitled thereto.

(2) The conservator shall apply the money and property for the payments of debts, taxes, claims, charges and expenses of the conservatorship and for the support, care, maintenance and education of the ward or his ***family, if not in conflict with an***

order of the court or the ward's needs[~~dependents~~].

(3) Any sale of realty of a ward shall be as provided in KRS Chapter 389A.

(4) Any lease of mineral rights, oil and gas rights, or sale of timber owned by a ward, or consolidation agreement, as defined by KRS 353.220, to be made on behalf of a ward by a conservator or guardian shall require the authorization and order of the District Court of the county where the conservator or guardian has qualified. Such order may be given only pursuant to written motion which contains the grounds for the motion and a description of the lease or agreement involved.

Section 7. KRS 387.710 is amended to read as follows:

(1) Within sixty (60) days of appointment, the limited conservator or conservator shall file with the court a verified inventory of all the property of the ward which has come to his possession or knowledge, including a statement of all encumbrances, liens, and other secured claims on any item, any claims against the estate of the ward, and any cause of action accruing to the ward. The limited conservator or conservator shall provide a copy thereof to the ward if he has sufficient mental capacity to understand it.

(2) (a) A limited conservator or conservator shall file with the court a verified report and financial account biennially within one hundred twenty (120) days after the anniversary date of his appointment. The report shall contain:

1. The present personal status of the ward whose estate is managed by the conservator;
2. The conservator's plan for preserving and maintaining the estate of which he has control or supervision;
3. The need for continuation or cessation of the conservatorship; and
4. The need for any alteration in the powers of the conservatorship.

(b) The biennial report shall specify the amount and type of real and personal property received by the conservator and remaining in his control or invested by him, the nature of such investment, and expenditures made during the preceding year. Upon request of the court, the conservator shall produce for examination any information or documentation which the court may consider relevant to the accounting of the financial and property transactions of the estate.

(c) ***The court may waive a formal accounting if the ward's monthly income is under seven hundred dollars ($700), or the ward is Medicaid-eligible***[~~If the ward has no real property and possesses personal property of fifteen hundred dollars ($1,500) or less for any year during the biennial report, the guardian, conservator, or limited conservator may file an informal biennial financial report attesting to the identity of the ward's financial account and its current balance. If the balance does not exceed fifteen hundred dollars ($1,500) for any year of the biennial report, the guardian, conservator, or limited conservator shall not be required to render to the court a detailed accounting of the expenditures from the fund, unless the court, on its own motion or that of any interested party or individual, deems it necessary to order the guardian, conservator, or limited conservator to provide a detailed biennial accounting, including the listing of all expenditures for that reporting period. For guardians filing an informal biennial financial report, the provisions of subsection (2)(a)2. of this section shall not apply~~].

(3) Upon the resignation, removal, or death of a limited conservator or conservator, or on the termination of the conservatorship, the limited conservator or conservator, or his personal representative, shall forthwith submit a final report and account to the court and to the former ward and to the successor limited conservator or conservator, or, if the ward is deceased, to his personal representative, and shall pay over the trust estate to the person entitled thereto. Upon approval of the report and account, the limited conservator or conservator shall be discharged and his surety, if any, released.

Section 8. KRS 387.330 is amended to read as follows:

(1) Any person of full age and sound mind may execute a verified petition for the voluntary appointment of a guardian or a conservator of that person's property upon the express condition that the petition shall be acted upon by the court only upon the occurrence of an event specified or the existence of a described condition of the mental or physical health of the petitioner, the occurrence of which event, or the existence of which condition, shall be established in the manner directed in the petition. The petition, when filed, shall be accompanied by an affidavit from a licensed physician indicating that the person who signed the petition is now disabled as defined in KRS 387.510. The petition shall advise the proposed ward of a guardian's powers as provided in KRS 387.065 and conservator's powers as provided in KRS 387.137.

(2) The petition may nominate a person for appointment to serve as guardian or conservator, and may request that the appointment be made without bond, or with bond of a certain stated sum. The court in appointing the guardian or conservator shall appoint the individual nominated unless the court finds that person unfit or incompetent and shall give due regard to the other requests and recommendations contained in the petition.

(3) The petition may be deposited with the circuit clerk of the county in which the party resides, or with any person, firm, bank, or trust company selected by the petitioner.

(4) The petition may be revoked by the petitioner at any time before appointment of a guardian or conservator by the court, if the petitioner is of sound mind. Revocation shall be accomplished by the destruction of the petition by the petitioner, or

by the execution of an acknowledged instrument of revocation. If the petition has been deposited with the clerk, the revocation may be deposited there.

(5) At any time after the deposit of the petition with the clerk, and before its revocation, it may be brought on for hearing by the filing of a verified statement to the effect that the occurrence of the event or the condition provided for in the petition has come to pass. If the petition has not been deposited with the clerk under the provisions of subsection (3) of this section, it may be brought on for hearing at any time by the filing of it and the verified statement with the circuit clerk of the county in which the person who executed the petition then resides.

(6) At the time the petition is filed, the court, without any notice, may appoint the guardian or conservator nominated in the petition or may set the petition for hearing on notice the court may prescribe.

(7) The powers and duties of a guardian or conservator shall be the same as those of a guardian or conservator appointed in response to any of the other petitions authorized in this chapter.

(8) At the time the petition for disability determination is filed, the court shall proceed with the determination by jury trial or emergency hearing.

HB 818, AN ACT relating to judicial retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.400 is amended to read as follows:

(1) A member who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962, creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 to 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one-hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a Circuit Judge, compensation received as special commissioner of the former Court of Appeals. If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.

(2) ***A member who retires at a time when combining his total years of service credit and his age equal or exceed the number seventy (70), may elect, within thirty (30) days following retirement, to participate in a Senior Status Program for Special Judges provided that he complies with the provisions of subsection (3) of this section. In that event, the member shall be entitled to a service retirement allowance, commencing at the member's normal retirement age, payable monthly during his lifetime in an amount equal to five percent (5%) of his final compensation multiplied by the number of years of his judicial service, plus two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his nonjudicial service credited to his account under KRS 21.370.***

(3) If the retiring member elects to retire under the Senior Status Program for Special Judges under subsection (2) of this section, he shall commit to serve, upon appointment by the Chief Justice, as special judge for a maximum of ninety (90) days per year for a term of five (5) years without compensation other than retirement benefits provided under subsection (2) of this section.

(4) A member who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed and payable in accordance with the provisions of subsection (1) ***or (2)*** of this section, on the basis of the number of years of his actual service.

(5)[~~(3)~~] In lieu of the right provided for in subsection ***(4)***[~~(2)~~] of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection ***(4)***[~~(2)~~] of this section when he reached his normal retirement age, reduced at the rate of five percent (5%) for each year by which his actual age at the time the election is made is lower than the normal retirement age.

(6)[~~(4)~~] A member who retires before his normal retirement date when his benefit is based on twenty-seven (27) years or more of service in the Judicial Retirement Plan, or if his judicial service credit, when combined with service he has in, or for which he is receiving benefits from, the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or the Teachers' Retirement System, is equal to twenty-seven (27) years, shall be vested with the right to receive a service retirement allowance computed and payable in accordance with the provisions of subsection (1) of this section on the basis of the number of years of his actual service.

(7)[~~(5)~~] In lieu of the right provided for in subsection ***(4)***[~~(2)~~] of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election, a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection ***(4)***[~~(2)~~] of this section when he reached normal retirement age, reduced at the rate of five percent (5%) for each year by which his years of service or combined service pursuant to subsection ***(6)***[~~(4)~~] of this section are lower than twenty-seven (27).

Section 2. KRS 6.520 is amended to read as follows:

(1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement, except that in the case of a legislator who retires pursuant to KRS 21.410 or who dies in office, "final compensation" shall be two thousand two hundred ninety-one dollars sixty-six cents ($2,291.66).

(2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400***(4)***[~~(2)~~] and ***(5)***[~~(3)~~] in the Judicial Retirement Plan for members of that plan, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.

(3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982, that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the sixty (60) months of service immediately preceding retirement.

(4) Subsections (1) and (2) of this section to the contrary notwithstanding, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement.

Section 3. KRS 21.410 is amended to read as follows:

(1) If upon examination of a member under his normal retirement age by one (1) or more qualified physicians employed by the retirement board, it is certified to the satisfaction of the board that such member is so physically or mentally disabled as to be incapacitated for further performance of duty, and that such incapacity is likely to be permanent, the member may retire for disability. A member who so retires shall be entitled to receive commencing immediately a disability retirement allowance, payable monthly during his disability, in an amount equal to one-half (1/2) of the monthly service retirement allowance he would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of actual retirement.

(2) A member need not have completed eight (8) years of service in order to be eligible for benefits under subsection (1) of this section.

(3) The retirement board shall cause a member who has been retired for disability and who is still under his normal retirement age to undergo periodic examination by one (1) or more qualified physicians employed by the board, to determine whether he continues to be incapacitated for service of the character required of a judge or commissioner. If upon any such examination it is certified to the satisfaction of the board that the member is no longer so incapacitated, or

if the member refuses to submit to examination, the board shall terminate his disability retirement allowance. He shall then be entitled to such rights, if any, under subsection ***(4)***[~~(2)~~] or ***(5)***[~~(3)~~] of KRS 21.400 as he would have been entitled to had he voluntarily retired on the date he was retired for disability.

(4) Upon reaching his normal retirement age, a member who has been receiving a disability retirement allowance may apply for and receive, in lieu thereof, the service retirement allowance he would have been entitled to receive at normal retirement age had he voluntarily retired on the date he was retired for disability.

Section 4. KRS 21.420 is amended to read as follows:

(1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection ***(5)***[~~(3)~~] of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.

(2) (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.

(b) If a member dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.

(3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection ***(5)***[~~(3)~~] of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection ***(4)***[~~(2)~~] of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.

(4) A member, or a retiree who has not commenced drawing retirement benefits pursuant to KRS 21.400, who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated contributions of the member. Absent a designation by the member or retiree, the accumulated contributions shall be paid to the member's estate.

(5) A member who commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the personal contributions of the member, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member. Any offset of contributions by reason of benefits received shall be deducted from the contributions first made to the system. Absent a designation by the member, the accumulated contributions shall be paid to the member's estate.

(6) A member may designate a beneficiary who shall receive the balance of the accumulated contributions of the member, in the event survivor's benefits are being paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior to receiving benefits equal to the member's contributions. In this event, the provisions of subsection (5) of this section shall apply as to offset and payment.

(7) A member may, before retirement, elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member. If the member dies after retirement, the option chosen shall prevail over the provisions of subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:

(a) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse.

(b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

HB 840, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.050 is amended to read as follows:

(1) A person is guilty of rape in the second degree when***:***[~~,~~]

(a) Being eighteen (18) years old or more, he engages in sexual intercourse with another person less than fourteen

(14) years old***; or***

(b) He engages in sexual intercourse with another person who is mentally incapacitated because the defendant, or another person at the defendant's urging, administered a controlled substance to the victim for the purpose of rendering the victim mentally incapacitated.

(2) Rape in the second degree is a Class C felony.

Section 2. KRS 510.080 is amended to read as follows:

(1) A person is guilty of sodomy in the second degree when***:***[~~,~~]

(a) Being eighteen (18) years old or more, he engages in deviate sexual intercourse with another person less than fourteen (14) years old***; or***

(b) He engages in deviate sexual intercourse with another person who is mentally incapacitated because the defendant, or another person at the defendant's urging, administered a controlled substance to the victim for the purpose of rendering the victim mentally incapacitated.

(2) Sodomy in the second degree is a Class C felony.

Section 3. KRS 510.110 is amended to read as follows:

(1) A person is guilty of sexual abuse in the first degree when:

(a) He subjects another person to sexual contact by forcible compulsion; or

(b) He subjects another person to sexual contact who is incapable of consent because he:

1. Is physically helpless; or

2. Is less than twelve (12) years old***; or***

3. Is mentally incapacitated because the defendant, or another person at the defendant's urging, administered a controlled substance to the victim for the purpose of rendering the victim mentally incapacitated.

(2) Sexual abuse in the first degree is a Class D felony.

The Committee Substitute to **HB 840** is as follows:

AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.050 is amended to read as follows:

(1) A person is guilty of rape in the second degree when***:***[~~,~~]

(a) Being eighteen (18) years old or more, he engages in sexual intercourse with another person less than fourteen (14) years old***; or***

(b) He engages in sexual intercourse with another person who is mentally incapacitated because the defendant, or another person at the defendant's urging, administered a controlled substance or legend drug to the victim without the victim's knowledge for the purpose of rendering the victim mentally incapacitated.

(2) Rape in the second degree is a Class C felony.

Section 2. KRS 510.080 is amended to read as follows:

(1) A person is guilty of sodomy in the second degree when***:***[~~,~~]

(a) Being eighteen (18) years old or more, he engages in deviate sexual intercourse with another person less than fourteen (14) years old***; or***

(b) He engages in deviate sexual intercourse with another person who is mentally incapacitated because the defendant, or another person at the defendant's urging, administered a controlled substance or legend drug to the victim without the victim's knowledge for the purpose of rendering the victim mentally incapacitated.

(2) Sodomy in the second degree is a Class C felony.

Section 3. KRS 510.110 is amended to read as follows:

(1) A person is guilty of sexual abuse in the first degree when:

(a) He subjects another person to sexual contact by forcible compulsion; or

(b) He subjects another person to sexual contact who is incapable of consent because he:

1. Is physically helpless; or

2. Is less than twelve (12) years old***; or***

3. Is mentally incapacitated because the defendant, or another person at the defendant's urging, administered a controlled substance or legend drug to the victim without the victim's knowledge for the purpose of rendering the victim mentally incapacitated.

(2) Sexual abuse in the first degree is a Class D felony.

SB 36, AN ACT relating to protection of adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.990 is amended to read as follows:

(1) Anyone knowingly ***or wantonly***~~[and willfully]~~ violating the provisions of KRS 209.030(2) shall be guilty of a Class B misdemeanor as designated in KRS 532.090. Each violation shall constitute a separate offense.

(2) Any caretaker who knowingly ~~[and willfully]~~ abuses ***or***~~[,]~~ neglects~~[, or exploits]~~ an adult~~[within the meaning of this chapter, and in so doing causes serious physical or mental injury or permanent disability to such an adult,]~~ is guilty of a Class C felony~~[, or if such abuse, neglect, or exploitation causes minor physical or mental injury or temporary disability to the adult, the caretaker is guilty of a Class A misdemeanor]~~.

(3) Any caretaker who wantonly abuses or neglects an adult is guilty of a Class D felony.

(4) Any caretaker who recklessly abuses or neglects an adult is guilty of a Class A misdemeanor.

(5) Any caretaker who knowingly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, or both, is guilty of a Class C felony.

(6) Any caretaker who wantonly or recklessly exploits an adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, or both, is guilty of a Class D felony.

(7) Any caretaker who knowingly, wantonly, or recklessly exploits an adult, resulting in a total loss to the adult of three hundred dollars ($300) or less in financial or other resources, or both, is guilty of a Class A misdemeanor.

SB 74, AN ACT relating to crime stoppers organizations and providing a mechanism for their funding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Any crime stoppers organization that enters into a written agreement of affiliation, as provided in subsection 2 of this section, with a county in which the organization operates shall be funded in part by a one dollar ($1) fee added to court costs in that county. The fee shall be imposed on every person who is:

  (a) Convicted of any misdemeanor or violation, other than a violation of KRS Chapters 186, 187, 188, 189, or 189A; and

  (b) Sentenced to pay a fine for the misdemeanor or violation, regardless of whether the person is also incarcerated, or whether the fine is suspended, waived, or otherwise not imposed.

(2) Any crime stoppers organization may enter into a written agreement of affiliation, approved by a fiscal court or urban county council, with any county, or with any number of counties, in which the organization operates. Agreements of affiliation shall be valid for two (2) years and may be renewed. The agreements shall specify:

  (a) The relationship between the crime stoppers organization, the county, and law enforcement agencies in the county; and

  (b) That the crime stoppers organization shall account annually to the fiscal court or urban county council for all funds raised by the organization from all sources and all funds expended by the organization for any purpose. The agreement shall allow the crime stoppers organization to identify the sources of funds raised generically rather than by name. The agreement shall not require the crime stoppers organization to divulge the amounts of individual rewards paid nor the identity of any person to whom a reward was paid.

(3) In every county where an agreement of affiliation is approved, the county clerk shall notify the circuit clerk to collect the fee required by this section. The circuit clerk shall collect the fee for two (2) years from the date the agreement was signed. When the circuit clerk pays fines and costs over to the state, the circuit clerk shall pay all money collected under this section to the crime stoppers organization named in the agreement.

(4) The crime stoppers fee shall not be waived or suspended. Failure to pay the fee shall be treated as a failure to pay a fine under KRS Chapter 534.

(5) Crime stoppers organizations may use the funds they receive under this section for any purpose authorized by KRS 431.575.

SB 250, AN ACT relating to mediation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13B.070 is amended to read as follows:

(1) A hearing officer may convene and conduct a prehearing conference upon reasonable notice to all parties to ***explore***~~[deal with exploration of]~~ jurisdictional matters, ***mediation and*** settlement possibilities, preparation of stipulations, clarification of issues, rulings on witnesses, taking of evidence, issuance of subpoenas and orders, and other matters that will promote the orderly and prompt conduct of the hearing.

(2) Upon conclusion of a prehearing conference, the hearing officer shall issue a prehearing order incorporating all matters determined at the prehearing conference. If a prehearing conference is not held, the hearing officer may issue a prehearing order, based on the pleadings, to regulate the conduct of the hearing.

(3) Except to the extent precluded by another provision of law, ***mediation or*** informal settlement of matters that may make unnecessary more elaborate proceedings under this chapter is encouraged. Agencies that employ informal settlement procedures shall establish by administrative regulation the specific procedures to be used. This subsection shall not be construed, however, as requiring any party to settle a matter pursuant to informal procedures when the right to an administrative hearing is conferred.

Section 2. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) "Animal" includes every warm-blooded living creature except a human being;

(3) "Attorney" means attorney-at-law;

(4) "Bequeath" and "devise" mean the same thing;

(5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;

(7) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

(8) "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;

(9) "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;

(10) "Directors," when applied to corporations, includes managers or trustees;

(11) "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;

(12) "Domestic animal" means any animal converted to domestic habitat;

(13) "Federal" refers to the United States;

(14) "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;

(15) "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(16) "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(17) "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(18) "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(19) "Legatee" and "devisee" convey the same idea;

(20) "May" is permissive;

(21) "Month" means calendar month;

(22) "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(23) "Owner" when applied to any animal, means any person having a property interest in such animal;

(24) "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;

(25) "Penitentiary" includes all of the state penal institutions except the houses of reform;

(26) "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally,

individuals, partnerships, registered limited liability partnerships, joint stock companies, and limited liability companies;

(27) "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(28) "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;

(29) "Shall" is mandatory;

(30) "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(31) "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the Treasury and whether or not the money is still in the Treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(32) "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(33) "United States" includes territories, outlying possessions, and the District of Columbia;

(34) "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(35) "Violate" includes failure to comply with;

(36) "Will" includes codicils; "last will" means last will and testament;

(37) "Year" means calendar year;

(38) "City" includes town; and

(39) Appropriation-related terms are defined as follows:

(a) "Appropriation" means an authorization by the General Assembly to expend, from public funds, a sum of money not in excess of the sum specified, for the purposes specified in the authorization and under the procedure prescribed in KRS Chapter 48;

(b) "Appropriation provision" means a section of any enactment by the General Assembly which is not provided for by KRS Chapter 48 and which authorizes the expenditure of public funds other than by a general appropriation bill;

(c) "General appropriation bill" means an enactment by the General Assembly that authorizes the expenditure of public funds in an executive, judicial, or legislative branch budget bill as provided for in KRS Chapter 48*; and*

(40) "Mediation" means a nonadversarial process in which a neutral third party encourages and helps disputing parties reach a mutually acceptable agreement. Recommendations by mediators are not binding on the parties unless the parties enter into a settlement agreement incorporating the recommendations.

SECTION 3. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

It is the policy of this Commonwealth to encourage the peaceable resolution of disputes and the early, voluntary settlement of litigation through negotiation and mediation. To the extent it is consistent with other laws, the courts and state governmental agencies are authorized and encouraged to refer disputing parties to mediation before trial or hearing.

The Committee on Health and Welfare reported **HB 718**, **HB 826**, with Committee Substitute attached thereto, **HB 864**, and **SB 83** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 718, AN ACT relating to reconstruction of the female breast after cancer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All insurers issuing individual health insurance policies in this Commonwealth which provide coverage on an expense-incurred basis for surgical services for a mastectomy shall also provide coverage for reconstructive breast surgery resulting from a mastectomy which resulted from breast cancer.

(2) All insurers issuing individual health insurance policies in this Commonwealth which provide coverage on an expense-incurred basis for surgical services for a mastectomy shall also provide coverage for all stages of one (1) reconstruction on the nondiseased breast to make it equal in size with the diseased breast after definitive reconstructive surgery on the diseased breast has been performed.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All insurers issuing group or blanket health insurance policies and certificates in this Commonwealth providing coverage on an expense-incurred basis for surgical services for a mastectomy shall also provide coverage for reconstructive breast surgery resulting from a mastectomy which resulted from breast cancer.

(2) All insurers issuing group or blanket health insurance policies and certificates in this Commonwealth providing coverage on an expense-incurred basis for surgical services for a mastectomy shall also provide coverage for all stages of one (1) reconstruction on the nondiseased breast to make it equal in size with the diseased breast after definitive reconstructive surgery on the diseased breast has been performed.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All nonprofit hospital, medical-surgical, dental, and health service corporations issuing contracts in this Commonwealth which provide hospital, medical, or surgical expense benefits for a mastectomy shall also provide coverage for reconstructive breast surgery resulting from a mastectomy which resulted from breast cancer.

(2) All nonprofit hospital, medical-surgical, dental, and health service corporations issuing contracts in this Commonwealth which provide hospital, medical, or surgical expense benefits for a mastectomy shall also provide coverage for all stages of one (1) reconstruction on the nondiseased breast to make it equal in size with the diseased breast after definitive reconstructive surgery on the diseased breast has been performed.

SECTION 4. A NEW SECTION OF SUBCHAPTER 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Health maintenance organizations issuing contracts in this Commonwealth which provide hospital, medical, or surgical expense benefits for surgical services for a mastectomy shall also provide coverage for reconstructive breast surgery resulting from a mastectomy which resulted from breast cancer.

(2) All health maintenance organizations issuing contracts in this Commonwealth which provide hospital, medical, or surgical expense benefits for surgical services for a mastectomy shall also provide coverage for all stages of one (1) reconstruction on the nondiseased breast to make it equal in size with the diseased breast after definitive reconstructive surgery on the diseased breast has been performed.

SECTION 5. A NEW SECTION OF KRS 304.17A-100 TO 304.17A-160 IS CREATED TO READ AS FOLLOWS:

(1) Health benefit plans which provide benefits for surgical services for a mastectomy shall also provide coverage for reconstructive breast surgery resulting from a mastectomy which resulted from breast cancer.

(2) All health benefit plans which provide benefits for surgical services for a mastectomy shall also provide coverage for all stages of one (1) reconstruction on the nondiseased breast to make it equal in size with the diseased breast after definitive reconstructive surgery on the diseased breast has been performed.

HB 826, AN ACT relating to services for children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children with an Emotional Disability. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

(1) This council shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Social Services, *the commissioner of the Department for Juvenile Justice,* the commissioner of the Department for Health Services, the commissioner of the Department of Medicaid Services, and the executive director of the Administrative Offices of the Courts, or their designees; and

(b) The Governor shall appoint one (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State Family Advisory Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members.

(2) The State Interagency Council for Services to Children with an Emotional Disability shall:

(a) Consider issues and make recommendations annually to the Governor and the Legislative Research Commission regarding the provision of services for children with an emotional disability;

(b) Direct each regional interagency council to coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination;

(c) Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with an emotional disability. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child.

(d) Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with an emotional disability referred by regional councils;

(e) Assess the effectiveness of regional councils in meeting the service needs of children with an emotional disability;

(f) Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B;

(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;

(h) Adopt interagency agreements as necessary for coordinating services to children with an emotional disability by the agencies represented in the state council; and

(i) Develop services to meet the needs of children with an emotional disability.

(j) Promote strategies to improve statewide and regional prevention services.

(3) The State Interagency Council for Services to Children with an Emotional Disability may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.

Section 2. KRS 200.509 is amended to read as follows:

(1) There are hereby created regional interagency councils for services to children with an emotional disability. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to children with an emotional disability shall be chaired by the district supervisor of the Department for Social Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members:

(a) The children's services coordinator from each regional community mental health center or their designee in the case of a multicouncil district;

(b) One (1) court designated worker chosen by the Chief Regional District Judge within the region;

(c) One (1) specialist in special education chosen by the school district superintendents in the area served by the regional council;

(d) One (1) representative of the Department of Juvenile Justice who works in the area served by the regional council chosen by the commissioner of the Department for Juvenile Justice;

(e) One (1) representative from a health department in the area served by the regional council chosen by the public health directors of the region;

(f)[~~(d)~~] One (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability, and one (1) parent who meets the same criteria to serve as the parent member's alternate, who may attend and participate in all council meetings, but shall vote only in the absence of the parent member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment; and

(g)[~~(e)~~]Any other local public or private agency that provides services to children with an emotional disability which the regional interagency council may invite to have a representative become a permanent or temporary member of the council.

(2) No member of a regional interagency council for services to children with an emotional disability shall be given compensation in addition to that which they already receive as service providers or state employees, except that the parent members and alternate parent members of regional interagency councils shall be reimbursed for all expenses incurred through the performance of their duties as council members.

(3) Each regional interagency council for services to children with an emotional disability shall perform the following functions:

(a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;

(b) Coordinate the development of interagency service plans for children with an emotional disability in the least restrictive alternative mode of treatment;

(c) Identify the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with an emotional disability;

(d) Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner;

(e) Initiate and adopt interagency agreements as necessary for providing services to children with an emotional disability by the agencies represented in the regional council;

(f) Advise the state interagency council regarding service delivery to children with an emotional disability within the region;

(g) Refer those children for whom the regional councils cannot provide adequate services to the state interagency council;

(h) Implement the uniform grievance procedure established by the state interagency council;

(i) Make periodic reports to the state interagency council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child; and

(j) Recognize local interagency councils for services to children with an emotional disability when it determines the council would be beneficial to service delivery.

(4) The secretary for human resources and the designee of the State Department of Education shall ensure that regional councils for services to children with an emotional disability are formed by October 1, 1990.

(5) Local interagency councils for services to children with an emotional disability may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for children with an emotional disability within a city, county, or other local community.

Section 3. KRS 200.672 is amended to read as follows:

While the Commonwealth is participating in Part C of the Individuals with Disabilities Education Act, P.L. 102-119 and P.L. 105-17[~~Within the limitations of any available funding and subject to any appropriations related thereto~~], an infant or toddler with a disability who is being served by the Kentucky Early Intervention System and the parent or guardian of that child shall have the following rights:

(1) To a timely, multidisciplinary evaluation and assessment;

(2) To appropriate early intervention services for children and families;

(3) To refuse evaluation, assessment, or services;

(4) To written notice before a change is made in the identification, evaluation, or placement of the child, or in the provision of services to the child or family;

(5) To written notice before a refusal of services is made in the identification, evaluation, or placement of the child, or in the provision of services to the child or family;

(6) To confidentiality of personally identifiable information, including the right of the parent or guardian to be provided written notice of, and written consent to, the exchange of information among agencies, consistent with federal and state laws;

(7) To determine if any family member will accept or decline an early intervention service under KRS 200.650 to 200.676, in accordance with state law, without jeopardizing other early intervention services under KRS 200.650 to 200.676;

(8) To review all records and, if appropriate, to amend records;

(9) To bring an advocate or attorney into any and all dealings with the early intervention system; and

(10) To administrative process and judicial review in accordance with KRS Chapter 13B to resolve complaints.

If the amount of funding necessary to make the assurances pertaining to these rights is not sufficient, the cabinet shall institute a fifteen percent (15%) reduction in reimbursements to providers.

The Committee Substitute to **HB 826** is as follows:

AN ACT relating to services for children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children with an Emotional Disability. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

(1) This council shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Social Services, ***the commissioner of the Department for Juvenile Justice, the commissioner of the Department for Social Insurance,*** the commissioner of the Department for Health Services, the commissioner of the Department of Medicaid Services, and the executive director of the Administrative Offices of the Courts, or their designees; and

(b) The Governor shall appoint one (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State Family Advisory Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members.

(2) The State Interagency Council for Services to Children with an Emotional Disability shall:

(a) Consider issues and make recommendations annually to the Governor and the Legislative Research Commission regarding the provision of services for children with an emotional disability;

(b) Direct each regional interagency council to coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination;

(c) Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with an emotional disability. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child.

(d) Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with an emotional disability referred by regional councils;

(e) Assess the effectiveness of regional councils in meeting the service needs of children with an emotional disability;

(f) Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B;

(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;

(h) Adopt interagency agreements as necessary for coordinating services to children with an emotional disability by the agencies represented in the state council; and

(i) Develop services to meet the needs of children with an emotional disability.

(j) Promote strategies to improve statewide and regional prevention services.

(3) The State Interagency Council for Services to Children with an Emotional Disability may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.

Section 2. KRS 200.509 is amended to read as follows:

(1) There are hereby created regional interagency councils for services to children with an emotional disability. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to children with an emotional disability shall be chaired by the district supervisor of the Department for Social Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members:

(a) The children's services coordinator from each regional community mental health center or their designee in the case of a multicouncil district;

(b) One (1) court designated worker chosen by the Chief Regional District Judge within the region;

(c) One (1) specialist in special education chosen by the school district superintendents in the area served by the regional council;

(d) One (1) representative of the Department of Juvenile Justice who works in the area served by the regional council chosen by the commissioner of the Department for Juvenile Justice;

(e) One (1) representative from a health department in the area served by the regional council chosen by the public health directors of the region;

(f) One (1) representative of the local Department for Social Insurance chosen by the regional field service manager in the area served by the regional council;

(g)[~~(d)~~] One (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability, and one (1) parent who meets the same criteria to serve as the parent member's alternate, who may attend and participate in all council meetings, but shall vote only in the absence of the parent member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment; and

(h)[~~(e)~~] Any other local public or private agency that provides services to children with an emotional disability which the regional interagency council may invite to have a representative become a permanent or temporary member of the council.

(2) No member of a regional interagency council for services to children with an emotional disability shall be given compensation in addition to that which they already receive as service providers or state employees, except that the parent members and alternate parent members of regional interagency councils shall be reimbursed for all expenses incurred through the performance of their duties as council members.

(3) Each regional interagency council for services to children with an emotional disability shall perform the following functions:

(a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;

(b) Coordinate the development of interagency service plans for children with an emotional disability in the least restrictive alternative mode of treatment;

(c) Identify the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with an emotional disability;

(d) Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner;

(e) Initiate and adopt interagency agreements as necessary for providing services to children with an emotional disability by the agencies represented in the regional council;

(f) Advise the state interagency council regarding service delivery to children with an emotional disability within the region;

(g) Refer those children for whom the regional councils cannot provide adequate services to the state interagency council;

(h) Implement the uniform grievance procedure established by the state interagency council;

(i) Make periodic reports to the state interagency council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child; and

(j) Recognize local interagency councils for services to children with an emotional disability when it determines the council would be beneficial to service delivery.

(4) The secretary for human resources and the designee of the State Department of Education shall ensure that regional councils for services to children with an emotional disability are formed by October 1, 1990.

(5) Local interagency councils for services to children with an emotional disability may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for children with an emotional disability within a city, county, or other local community.

Section 3. KRS 200.672 is amended to read as follows:

While the Commonwealth is participating in Part C of the Individuals with Disabilities Education Act, P.L. 102-119 and P.L. 105-17[~~Within the limitations of any available funding and subject to any appropriations related thereto~~], an infant or toddler with a disability who is being served by the Kentucky Early Intervention System and the parent or guardian of that child shall have the following rights:

(1) To a timely, multidisciplinary evaluation and assessment;

(2) To appropriate early intervention services for children and families;

(3) To refuse evaluation, assessment, or services;

(4) To written notice before a change is made in the identification, evaluation, or placement of the child, or in the provision of services to the child or family;

(5) To written notice before a refusal of services is made in the identification, evaluation, or placement of the child, or in the provision of services to the child or family;

(6) To confidentiality of personally identifiable information, including the right of the parent or guardian to be provided written notice of, and written consent to, the exchange of information among agencies, consistent with federal and state laws;

(7) To determine if any family member will accept or decline an early intervention service under KRS 200.650 to 200.676, in accordance with state law, without jeopardizing other early intervention services under KRS 200.650 to 200.676;

(8) To review all records and, if appropriate, to amend records;

(9) To bring an advocate or attorney into any and all dealings with the early intervention system; and

(10) To administrative process and judicial review in accordance with KRS Chapter 13B to resolve complaints.

If the amount of funding necessary to make the assurances pertaining to these rights is not sufficient, the cabinet shall institute a fifteen percent (15%) reduction in reimbursements to providers.

HB 864, AN ACT relating to health and welfare, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All insurers issuing individual health insurance policies in this Commonwealth providing coverage on an expense-incurred basis shall make available and offer to the purchaser coverage for:

(a) All stages of breast reconstruction surgery following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies;

(b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies;

(c) Bone density testing for women age thirty-five (35) and older, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis; and

(d) Prescription drugs prescribed by a health care provider granted prescriptive privileges under the laws of the Commonwealth and over-the-counter drugs at the written instructions of the health care provider for the purpose of smoking cessation therapy.

(2) No insurer under this section shall offer coverage for mastectomies that requires the procedure to be performed on an outpatient basis.

SECTION 2. A NEW SECTION OF KRS 304.17A-100 TO 304.17A-160 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan issued or renewed on or after July 15, 1996, shall make available and offer to the purchaser coverage for:

(a) Breast reconstruction surgery following a mastectomy that resulted from breast cancer if the insurer also

covers mastectomies;

(b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies;

(c) Bone density testing for women age thirty-five (35) and older, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis; and

(d) Prescription drugs prescribed by a health care provider granted prescriptive privileges under the laws of the Commonwealth and over-the-counter drugs at the written instructions of the health care provider for the purpose of smoking cessation therapy.

(2) No health benefit plan under this section shall offer coverage for mastectomies that requires the procedure be performed on an outpatient basis.

SECTION 3. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All insurers issuing group or blanket health insurance policies and certificates in this Commonwealth providing coverage on an expense-incurred basis shall make available and offer to the purchaser coverage for:

(a) Breast reconstruction surgery following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies;

(b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies;

(c) Bone density testing for women age thirty-five (35) and older, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis; and

(d) Prescription drugs prescribed by a health care provider granted prescriptive privileges under the laws of the Commonwealth and over-the-counter drugs at the written instructions of the health care provider for the purpose of smoking cessation therapy.

(2) No insurer under this section shall offer coverage for mastectomies which requires the procedure be performed on an outpatient basis.

SECTION 4. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All nonprofit hospital, medical-surgical, dental, and health service corporations issuing contracts in this Commonwealth providing hospital, medical, or surgical expense benefits shall make available and offer to the purchaser coverage for:

(a) Breast reconstruction surgery following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies;

(b) Diagnosis and treatment of endometriosis and endometritis if the insurer also covers hysterectomies;

(c) Bone density testing for women age thirty-five (35) and older, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis; and

(d) Prescription drugs prescribed by a health care provider granted prescriptive privileges under the laws of the Commonwealth and over-the-counter drugs at the written instructions of the health care provider for the purpose of smoking cessation therapy.

(2) No insurer under this section shall offer coverage for mastectomies that requires the procedure be performed on an outpatient basis.

SECTION 5. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Health maintenance organizations issuing contracts in this Commonwealth that provide hospital, medical, or surgical expense benefits shall make available and offer to the purchaser coverage for:

(a) Breast reconstruction surgery following a mastectomy that resulted from breast cancer if the insurer also covers mastectomies;

(b) Diagnosis and treatment of endometriosis if the insurer also covers hysterectomies;

(c) Bone density testing for women age thirty-five (35) and older, in accordance with standard medical practice, to obtain baseline data for the purpose of early detection of osteoporosis; and

(d) Prescription drugs prescribed by a health care provider granted prescriptive privileges under the laws of the Commonwealth and over-the-counter drugs at the written instructions of the health care provider for the purpose of smoking cessation therapy.

(2) No insurer under this section shall offer coverage for mastectomies that requires the procedure be performed on an outpatient basis.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No health benefit plan shall deny coverage, refuse to issue or renew, cancel or otherwise terminate, restrict, or

exclude any person from any health benefit plan issued or renewed on or after the effective date of this Act, on the basis of the applicant's or insured's status as a victim of domestic violence and abuse as defined in KRS 403.720.

(2) No health benefit plan shall deny a claim on the basis of the insured's status as a victim of domestic violence.

(3) Domestic violence shall not be considered to be a preexisting condition.

Section 7. KRS 216.2920 is amended to read as follows:

As used in KRS 216.2920 to 216.2929, unless the context requires otherwise:

(1) "Ambulatory facility" means a facility, including an ambulatory surgical facility, ambulatory care clinic, alternative birth center, mobile health service, or a specialized medical technology service, which is not part of a hospital, and which is licensed pursuant to KRS Chapter 216B, and which provides one (1) or more major ambulatory procedures to patients not requiring hospitalization.

(2) ***"Cabinet" means the Cabinet for Human Resources.***

(3) "Charge" means all amounts billed by a hospital or ambulatory facility, including charges for all ancillary and support services or procedures, prior to any adjustment for bad debts, charity contractual allowances, administrative or courtesy discounts, or similar deductions from revenue. However, if necessary to achieve comparability of information between providers, charges for the professional services of hospital-based or ambulatory facility-based physicians shall be excluded from the calculation of charge.

(4) "Facility" means any hospital or other health care facility, whether operated for profit or not, required to be licensed pursuant to KRS Chapter 216B.

(5) "Health care provider" or "provider" means any facility and service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314;

(g) Other health care practitioners as determined by the Cabinet for Human Resources by administrative regulation promulgated pursuant to KRS Chapter 13A.

(6)[~~(3)~~] "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an acute care hospital, psychiatric hospital, rehabilitation hospital, or chemical dependency treatment facility.

(7)[~~(4)~~] "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic, procedures performed by a provider, as periodically determined by the cabinet in administrative regulations promulgated pursuant to KRS Chapter 13A as those for which reports to the cabinet shall be required. "Procedures" also includes procedures that are provided in hospitals or other licensed ambulatory facilities, or those which require the use of special equipment, including fluoroscopic equipment, computer tomographic scanners, magnetic resonance imagers, mammography, ultrasound equipment, or any other new technology as periodically determined by the cabinet.

(8)[~~(5)~~] "Quality" means the extent to which a provider renders care which obtains for patients optimal health outcomes.

(9)[~~(6)~~] "Secretary" means the secretary of the Cabinet for Human Resources.

Section 8. KRS 216.2921 is amended to read as follows:

(1) The Cabinet for Human Resources shall collect, pursuant to KRS 216.2925, analyze, and disseminate information ***in a timely manner*** on the cost, quality, and outcomes of health services provided by health facilities and health care providers in the Commonwealth. ***The cabinet shall make every effort to make health data findings that can serve as a basis to educate consumers and providers for the purpose of improving patient morbidity and mortality outcomes, available to the public, and state and local leaders in health policy, through the cost-effective and timely use of the media and the Internet and through distribution of the findings to health facilities and health care providers for further dissemination to their patients.***

(2) The secretary of the Cabinet for Human Resources shall serve as chief administrative officer for the health data collection functions of KRS 216.2920 to 216.2929.

(3) Neither the secretary nor any employee of the cabinet shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of under KRS 216.2920 to 216.2929.

Section 9. KRS 216.2923 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:

(a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;

(b) Apply for and accept any funds, property, or services from any person or government agency;

(c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and

(d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:

(a) Publish and make available information that relates to the health care financing and delivery system, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits that is in the public interest;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health care costs;
2. Health care quality and outcomes;
3. Health care providers and health services;
4. Health insurance costs; and
5. The cost of health benefits covered by motor vehicle insurance and workers' compensation insurance;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;

(d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and

(e) ***No later than thirty (30) days after the effective date of this Act,*** appoint ***and convene*** a permanent advisory committee***, which shall include a member of the Kentucky Commission on Women,*** to define quality outcome measurements and to advise the cabinet on technical matters including proper interpretation of the data and the manner in which it should be published ***and disseminated to the public, state and local leaders in health policy, health facilities, and health care providers***.

(3) All insurers and self-insurers authorized to write motor vehicle, workers' compensation, or health insurance in this state shall transmit at least annually by March 30 to the Department of Insurance the following information on their insurance experience in this state for the preceding calendar year:

(a) Total premiums paid;

(b) Total cost of claims filed and paid;

(c) Total cost of health and medical claims paid for by motor vehicle insurance and by workers' compensation insurance;

(d) Total policies canceled by type and the aggregate reasons therefor;

(e) List of total health and medical services paid for, grouped by types of services and costs:

1. Total cost per health and medical service per insured group per month;
   a. Cost paid by insurer;
   b. Cost paid by insured; and
2. Percentage of insureds who received each service.

If the secretary finds it necessary for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may require quarterly transmission to the cabinet of the information specified under paragraphs (a) to (e) of this subsection. Nothing in this subsection shall prohibit the cabinet from requesting nonidentifying specific claims data for the purpose of identifying expenditure trends for health and medical claims and developing approaches to cost containment.

(4) The cabinet ***shall***~~[may]~~ promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars ($500) for each violation for knowingly failing to file a report as required ***under KRS 216.2920 to 216.2929***. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

Section 10. KRS 216.2925 is amended to read as follows:

(1) The Cabinet for Human Resources shall establish by promulgation of administrative regulations pursuant to KRS Chapter 13A, no later than January 1, 1995, those data elements required to be submitted to the cabinet by all licensed hospitals and ambulatory facilities, including a timetable for submission and acceptable data forms. ***The data collection shall include disease-specific demographic data reflecting gender, age, ethnicity, geographic region, and socioeconomic status of the patient.*** Thereafter, every hospital and ambulatory facility shall be required to report, on a periodic basis, which may include quarterly reporting, information regarding the charge for and quality of the procedures and health care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at the option of the provider is submitted through a third party, including, but not limited to, organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the cabinet. The cabinet may conduct statistical surveys of a sample of hospitals, ambulatory facilities, or other providers in lieu of requiring the submission of information by all hospitals, ambulatory facilities, or providers. The cabinet shall rely on data from readily-available reports and statistics whenever possible.

(2) The cabinet shall require for submission to the cabinet by any group of providers, except for physicians providing services or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition of provider contained in KRS 216.2920 and any further categories determined by the cabinet, at the beginning of each fiscal year after January 1, 1995, and within the limits of the state, federal, and other funds made available to the cabinet for that year, and as provided by cabinet promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:

(a) A list of medical conditions, health services, and procedures for which charge and quality data shall be collected and published at specified time intervals and in a specified manner;

(b) A timetable for filing data, which may include quarterly reporting of the information provided for under paragraph (a) of this subsection;

(c) A list of data elements that are necessary to enable the cabinet to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data***, and disease-specific demographic data reflecting gender, age, ethnicity, geographic region, and socioeconomic status of the patient***;

(d) An acceptable format for data submission which shall include use of the uniform health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet, and which may be in the form of magnetic computer tape, computer diskettes, or other electronic media, or through an electronic network, or in the form of hard copy;

(e) Procedures to allow health care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and

(f) Procedures pertaining to the confidentiality of data collected.

(3) The cabinet shall coordinate its data-gathering activities with other data-collection activities conducted by the Department of Insurance, as well as other state agencies which collect health-related service, utilization, financial, and health care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.

(4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health care charges and quality.

(5) The cabinet may independently audit any data required to be submitted by providers as needed to corroborate the accuracy of the submitted data. Any audit may be at the expense of the cabinet and shall, to the extent practicable, be coordinated with other audits performed by state agencies.

(6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at any time after July 15, 1996.

(7) The Cabinet for Human Resources shall collect all data elements under this section using only the uniform health insurance claim form pursuant to KRS 304.14-135.

SECTION 11. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

By the year 2000, there shall be created in state government an Office of Women's Health for the purpose of:

(1) Serving as a repository for data and information affecting women's health;

(2) Analyzing and communicating trends in women's health issues;

(3) Recommending to the Cabinet for Human Resources and to any advisory committees created under KRS 216.2923, data elements affecting women's health that should be collected, analyzed, and reported in a timely manner under KRS 216.2920 to 216.2929;

(4) Cooperating with the Cabinet for Human Resources in receiving and disseminating through the Internet relevant

aggregate data findings under KRS 216.2920 to 216.2929 which affect women; and

(5) Administering a Women's Health Resource Center to focus on targeted preventive care and comprehensive health education.

SECTION 12. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Any public assistance recipient under Title IV of the Federal Social Security Act and any federal food stamp program recipient who has been convicted of a drug felony after August 22, 1996, may remain eligible for the program benefits if the recipient has been assessed as chemically dependent and is participating in or has successfully completed a chemical dependency treatment program or is pregnant, and the recipient is otherwise eligible.

Section 13. There is hereby appropriated out of the general fund of the State Treasury to the Cabinet for Human Resources, Department for Mental Health and Mental Retardation, the sum of one million four hundred ninety thousand dollars ($1,490,000) for the fiscal year beginning July 1, 1998, and ending June 30, 1999, and one million five hundred thousand dollars ($1,500,000) for the fiscal year beginning July 1, 1999, and ending June 30, 2000, to match federal Medicaid funding to support chemical dependency prevention and treatment services for women of child-bearing age.

Section 14. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources appearing in subsections (2) and (5) of Section 7 of this Act and subsections (3) and (4) of Section 11 of this Act shall be codified as the Cabinet for Health Services.

Section 15. This Act may be cited as the Women's Health Act of 1998.

SB 83, AN ACT relating to child protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the

Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(15) "Department" means the Department for Social Services;

(16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(20) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(21) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment;

(22) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(23) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(24) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(25) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(26) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(27) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(28) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(29) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(30) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(31) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(32) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between

juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(33) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(34) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(35) ***"Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;***

(36) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(37)[~~(36)~~] "Parent" means the biological or adoptive mother or father of a child;

(38)[~~(37)~~] "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(39)[~~(38)~~] "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(40)[~~(39)~~] "Physical injury" means substantial physical pain or any impairment of physical condition;

(41)[~~(40)~~] "Public offense action" means an action brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(42)[~~(41)~~] "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(43)[~~(42)~~] "Residential treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(44)[~~(43)~~] "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(45)[~~(44)~~] "School personnel" means those certified persons under the supervision of the local public or private education agency;

(46)[~~(45)~~] "Secretary" means the secretary of the Cabinet for Human Resources;

(47)[~~(46)~~] "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(48)[~~(47)~~] "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(49)[~~(48)~~] "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(50)[~~(49)~~] "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(51)[~~(50)~~] "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(52)[~~(51)~~] "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(53)[~~(52)~~] "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(54)[~~(53)~~] "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(55)[~~(54)~~] "Youth alternative center" means a nonsecure facility, approved by the Department of Corrections, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

(56)[~~(55)~~] "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 2. KRS 620.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action.

(2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(3) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(4) ***The report of suspected child abuse, neglect, or dependency and*** all information obtained by the cabinet or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:

- (a) Persons suspected of causing dependency, neglect, or abuse[~~, provided that in such cases names of informants shall be withheld unless ordered by the court~~];
- (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
- (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
- (d) Other medical, psychological, educational, or social service agencies, ***child care administrators,*** corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
- (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
- (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600; or
- (g) Those persons so authorized by court order.

(5) ***The identity of informants shall not be divulged to anyone without a court order after the court has reviewed in***

camera the record of the state related to the report or complaint and has found it has reason to believe that the informant knowingly made a false report, excepting law enforcement agencies having a legitimate interest in the case.

(6) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.

(7) When an adult who is the subject of information made confidential by subsection (4) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (4) of this section is presumed voluntarily waived and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.

(8) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of such reports. Such photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking such photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

Motions, Petitions and Communications (Continued)

Representative Callahan moved the adoption of the following **Legislative Citation No. 155**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Jan Noonan for her extraordinary dedication to the task of writing eloquent legislative citations on behalf of the esteemed members of the General Assembly. Inasmuch as this gifted writer possesses a poetic heart and a generous spirit, she has truly enriched the lives of the citizens of this great Commonwealth with her beautiful and moving tributes, and in so doing has earned the respect and appreciation of those who request her assistance. The devoted mother of three loving children and an accomplished artist, Jan embodies the characteristics of a true Renaissance woman, facing life's challenges with intelligence, honor, integrity and a steadfast spirit. The members of this distinguished body join with Representative Jim Callahan in expressing sincere gratitude to Jan Noonan for her truly outstanding accomplishments and in extending to her best wishes on the joyful occasion of her birthday. **Legislative Citation No. 155** was adopted without objection.

Representative Callahan moved the adoption of the following **Legislative Citation No. 156**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Roxanne Hurt for the eloquence of expression and selfless dedication exhibited in writing legislative citations for the members of the General Assembly. Bringing the energy and enthusiasm of youth to her work while maintaining the maturity and reliability of a person well beyond her years, Roxanne has excelled in meeting the rigorous demands of her job, creating truly noteworthy citations. Inasmuch as the efforts of this talented young woman have given the members of this body a voice in conveying accolades to the citizens of this Commonwealth, the entire membership joins with Representative Jim Callahan in recognizing the sterling quality of Roxanne Hurt's work and in expressing best wishes to her in all of her future endeavors. **Legislative Citation No. 156** was adopted without objection.

Representative A. Arnold moved the adoption of the following **Legislative Citation No. 149**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Bowen Elementary School as an exemplary educational institution dedicated to the academic success of its students. The students and teachers of this esteemed institution are commended for their quest for knowledge and understanding of the legislative process. The entire membership of this honorable body joins Representative Adrian Arnold in extending highest regards to these outstanding citizens and hereby welcomes them to today's session of the House of Representatives as they view their government in action. **Legislative Citation No. 149** was adopted without objection.

Representative A. Arnold moved the adoption of the following **Legislative Citation No. 151**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Leadership Montgomery County. Inasmuch as the development of high caliber, well-educated citizens who are prepared to meet the challenges of tomorrow is indeed noteworthy, this fine organization is applauded for its role in forming the future leaders of this great Commonwealth. The members of this distinguished body are pleased to join Representative Adrian Arnold in graciously welcoming the members of Leadership Montgomery County to today's session of the 1998 Kentucky General Assembly and in wishing them best wishes in all future endeavors. **Legislative Citation No. 151** was adopted without objection.

Representative A. Arnold moved the adoption of the following **Legislative Citation No. 152**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Montgomery County High School as an exemplary educational institution dedicated to the academic success of its students. The students and teachers of Montgomery County High School are commended for their quest for knowledge and understanding of the legislative process. The entire membership of this distinguished body is indeed pleased to join Representative Adrian Arnold in extending highest regards to these outstanding citizens and in welcoming them to today's session of the House of Representatives as they view their government in action. **Legislative Citation No. 152** was adopted without objection.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 554**, by Representative Jordan:

On page 1, line 12, by adding after the word "violation" the following: "***by the contractor***"; and

On page 1, between lines 17 and 18, the following:

"***(3) A subcontractor's failure to reveal a final determination of a violation by the subcontractor of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the Commonwealth's:***

(a) Cancellation of the subcontractor's contract; and

(b) Disqualification of the subcontractor from eligibility for future state contracts for a period of two (2) years." and

On page 2, line 7, by adding after the word "violation" the following: "***by the contractor***"; and

On page 2, after line 12, by adding the following:

"***(4) A subcontractor's failure to reveal a final determination of a violation by the subcontractor of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these statutes for the duration of the contract shall be grounds for the Commonwealth's:***

(a) Cancellation of the subcontractor's contract; and

(b) Disqualification of the subcontractor from eligibility for future state contracts for a period of two (2) years.".

Floor Amendment No. 13 to the Committee Substitute to **HB 321**, by Representative Marcotte:

On page 201, between lines 23 and 24, by inserting the following new language:

"m. Biennial Highway Plan: Included in the state construction program for the utility phase of Boone County Highway Project Item Number 06-116.00, $50,000 for utility work is delayed from fiscal year 1999-2000 to fiscal year 2000-2001.".

Floor Amendment No. 14 to the Committee Substitute to **HB 321**, by Representative Barrows:

On page 192, by deleting lines 22 to 27 and;

On page 193, by deleting lines 1 to 16; and

by revising the numbering accordingly.

Motions, Petitions and Communications (Continued)

Representative Thomas moved the adoption of the following **Legislative Citation No. 153**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Warren East Lady Raiders upon winning the 4th Region Tournament Championship and advancing to the 1997-98 Girls Sweet Sixteen. Whereas this outstanding team, under the leadership of Head Coach Kami Howard, exhibited hard work, persistent dedication and exceptional team spirit and finished the season with an impressive 28-3 win-loss record, and whereas this achievement and many others have continued the winning tradition of the Warren East Lady Raiders, therefore, this prestigious body joins Representative Roger Thomas in recognizing the amazing talent of this extraordinary team, applauding its spectacular achievements and extending best wishes for continued success in all future endeavors. **Legislative Citation No. 153** was adopted without objection.

Representative Cox moved the adoption of the following **Legislative Citation No. 154**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Kentucky Christian School as a model of excellence in the preparation of students for the 21st century. These outstanding young citizens of Campbellsville, Kentucky, have demonstrated a keen interest in the legislative process and are commended for their extraordinary work in promoting House Bill 117. Combining artistic talent with a scholarly exploration of the Kentucky Constitution, these dedicated students are applauded for creating an inspiring poster portraying the Preamble of the Kentucky Constitution. The members of this honorable body are pleased to join Representative Ricky Cox in recognizing the initiative of the students and teachers of Kentucky Christian School and in extending a warm welcome as they visit this Chamber. **Legislative Citation No. 154** was adopted without objection.

Representative Deskins moved the adoption of the following **Legislative Citation No. 128**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors and applauds Joe Holland for his exceptional talent as a clogger demonstrated by his winning First Place honors at the Pike County Hillbilly Days ten consecutive years from 1987 to 1996, including being named the recipient of the People's Choice Award in 1992. The accomplishments of this extraordinary treasure of the Commonwealth are both distinct and worthy of note and the members of this august body are delighted to join with Representative Herbie Deskins, Jr. in commending the outstanding level of success attained by Joe Holland and in extending to him best wishes for continued success in the future. **Legislative Citation No. 128** was adopted without objection.

Representative L. Clark moved the adoption of the following **Legislative Citation No. 150**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Okolona Elementary School upon visiting the Capitol in Frankfort, Kentucky, to witness a day in the 1998 General Assembly. The desire to learn more about the history and legislative process of the Commonwealth of Kentucky is a worthwhile pursuit. Therefore, this honorable body is pleased to join Representative Larry Clark in welcoming the members of Okolona Elementary School to the Chambers of the Kentucky House of Representatives and in extending to them best wishes for the future. **Legislative Citation No. 150** was adopted without objection.

Representative Stumbo moved that **HB 519** be posted for passage in the Orders of the Day. Agreed.

Representative Mason moved that the rules be suspended to withdraw **HJR 110**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 39**, Representative Bruce; **HB 555**, Representative Baugh; **HB 561**, Representative Palumbo; **HB 588**, Representatives P. Clark, Horlander; **HR 111**, Representative Colter.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hoffman moved that he be recorded as voting "yea" on **HB 732** and **HB 768**. Agreed. Representative Hoffman moved that his vote be changed from "yea" to "nay" on **HB 753**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crall moved that he be recorded as voting "yea" on **HB 200**. Agreed.

Representative Rader moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Rader moved that her vote be changed from "nay" to "yea" on **HB 699**. Agreed.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Marcotte moved that his vote be changed from "nay" to "yea" on **HB 266**. Agreed. Representative Marcotte moved that he be recorded as voting "nay" on Floor Amendment No. 26 to **HB 85**. Agreed.

Representative Jenkins moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jenkins moved that she be recorded as voting "nay" on **HB 85**. Agreed.

Representative Miniard moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Miniard moved that his vote be changed from "yea" to "nay" on **HB 717**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Palumbo moved that she be recorded as voting "yea" on **HB 588**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Baugh moved that he be recorded as voting "yea" on **HB 690**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Jordan moved that she be recorded as voting "nay" on **HB 85**. Agreed. Representative Jordan moved that she be recorded as voting "yea" on **HB 266**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative R. Adams moved that his vote be changed from "yea" to "nay" on **HB 626** and **HB 753**. Agreed.

Representative D. Graham moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative D. Graham moved that his vote be changed from "yea" to "nay" on **HB 753**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Ratliff moved that his vote be changed from "yea" to "nay" on **HB 550**. Agreed. Representative Ratliff moved that his vote be changed from "nay" to "yea" on **HB 642**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Barrows moved that he be recorded as voting "yea" on **HB 78**, **HB 86**, and **HJR 121**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crimm moved that he be recorded as voting "yea" on **HB 425**. Agreed.

Announcements

The following meetings were announced:

Tourism Development and Energy, Room 125, upon adjournment.

Special Education, upon adjournment, Callahan's Office.

Labor and Industry, 9:00 a.m., Room 125.

Mountain Caucus, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., March 13, 1998.

On the roll call the vote was **Yeas 73**--J. Adams, R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brown, Burch, D. Butler, D. D. Butler, L. Clark, J. Clarke, Coleman, Colter, Cox, Crenshaw, Crimm, Damron, Deskins, DeWeese, Gee, Gooch, D. Graham, G. Graham, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Marcotte, Maricle, Marzian, Mason, Miller, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Reinhardt, Riner, Scott, Siler, Simpson, Sims, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 8**--Bratcher, Cave, Crall, Hoover, McKee, Nunn, Riggs, Stewart.

The motion to adjourn was adopted.